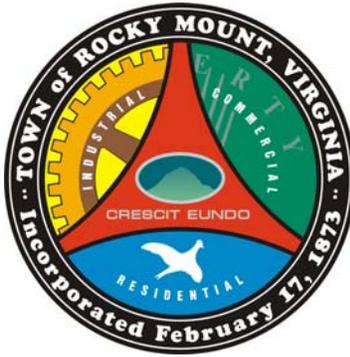


TOWN OF ROCKY MOUNT
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PLANNING COMMISSION
JANET STOCKTON, *Chair*
JOHN SPEIDEL, *Vice Chair*

BUD BLANCHARD JERRY W. GREER, SR.
INA CLEMENTS DERWIN HALL
JOHN TIGGLE

C. JAMES ERVIN, *Town Manager*
MATTHEW C. HANKINS, *Assistant Town Manager*
& *Community Development Director*

PLANNING COMMISSION AGENDA Tuesday, February 5, 2013 • 6 p.m.

Call To Order and Welcome

Janet Stockton, Chair

1. Roll Call of Members Present
2. Approval of Agenda
3. Review and Consideration of Minutes
 - November 8, 2012 - *regular meeting minutes*
 - December 4, 2012 - *regular meeting minutes*
 - January 8, 2013 - *regular meeting minutes*
4. Public Hearings
 - None at this time*
5. Old Business
 - Review and consideration of draft ordinance amending Chapter 22, Article II, Division 2 of the Code of the Town of Rocky Mount, Virginia (2002), in part, and providing for changes to weed and trash abatement in the Town of Rocky Mount
6. New Business
 - None at this time*
7. Commissioner Concerns & Staff Updates
8. Adjournment

**TOWN OF ROCKY MOUNT
PLANNING COMMISSION
DRAFT MINUTES
NOVEMBER 8, 2012
6:00 P.M.**

The Planning Commission of the Town of Rocky Mount, Virginia, met at the Rocky Mount Municipal Building on Thursday, November 8, 2012 at 6:00 p.m., with Madame Chair Janet Stockton presiding.

The following members of Planning Commission were present when the meeting was called to order: Madame Chair Janet Stockton and Vice Chair John Speidel; and Planning Commission Members Ina Clements, and John Tiggie. Let the record show that Planning Commission Member Derwin Hall was not present, and Planning Commission Member Jerry Greer was unable to attend due to a concurrent session of the Rocky Mount Town Council. In addition, let the record show that Planning Commission Member Bud Blanchard arrived at the meeting at 6:10 p.m.

The following staff members were present: Town Planner Patrick Rust and Deputy Clerk Stacey B. Sink.

APPROVAL OF AGENDA

Madame Chair Stockton asked if there were any additions or corrections to the presented agenda, and being none, entertained a motion.

- Motion was made by Planning Commission Member Clements to approve the agenda as presented, with motion on the floor being seconded by Vice Chair Speidel. 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, the Planning Commission received the following minutes for review and consideration of approval:

- July 2, 2012 – Regular Meeting Minutes
- August 9, 2012 – Joint Work Session with Rocky Mount Town Council
- September 4, 2012 – Regular Meeting Minutes

Madame Chair Stockton asked if there were any additions or corrections to the draft minutes.

Planning Commission Member Clements pointed out that there is an error in the August 9 minutes on page 5061, which lists Planning Commission Member Tiggle as the vice chair. The deputy clerk advised she would pass this information on to the town clerk for correction.

There being no further discussion, Madame Chair Stockton entertained a motion:

- Motion was made by Planning Commission Member Tiggle to approve the draft minutes for July 2 and September 4 as presented, along with the draft minutes for August 9 with the noted correction, with motion on the floor being seconded by Vice Chair Speidel. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

PUBLIC HEARING

Let the record show there were no public hearings held at this time.

OLD BUSINESS

(1) Comprehensive Plan Update

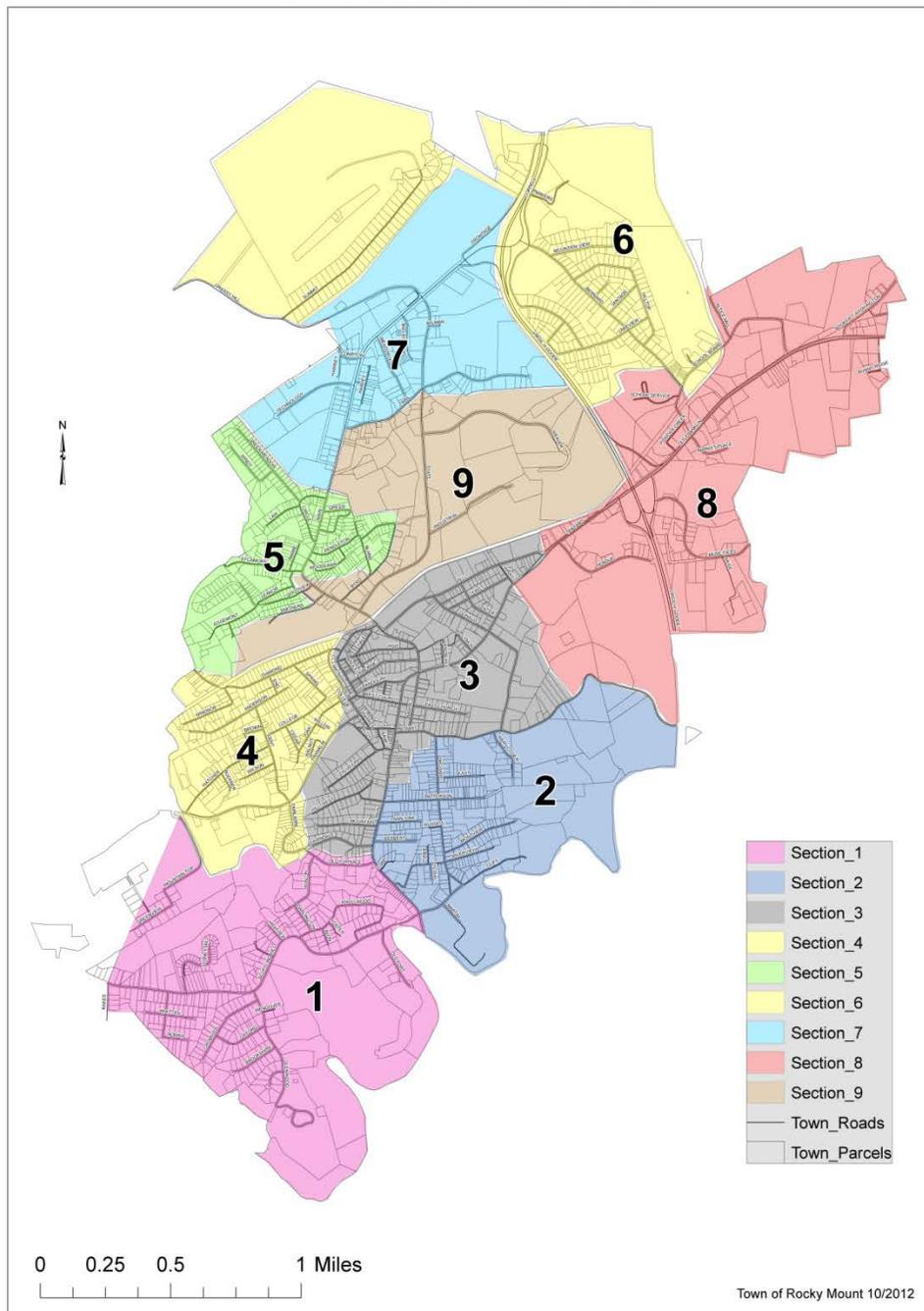
The town planner addressed the Planning Commission regarding the pending five-year review of the Town's Comprehensive Plan, making the following points:

- Staff intends to present parts of the plan for review and edits to the Planning Commission over the next few months, rather than reviewing the entire plan at one time.
- Staff has divided the Town into nine "communities of interest" and for each community, staff will assess its strengths, weaknesses, and needs (such as housing, roads, and public facilities). Staff plans to present a draft in early 2013, with the hope of going to public hearing in the spring.
- The purpose in breaking the Town into separate communities is to help focus attention on specific items, such as what one community may have and another may lack, while still assessing the Town in a comprehensive manner.
- Staff will also look at how the Town has changed in the past five years.

Discussion ensued:

- Planning Commission asked for clarification on how the Town will be divided.
- The town planner presented a map showing the nine geographically divided communities of interest and pointed out that the community at Scuffling Hill is different than the community of Franklin Heights.

Town of Rocky Mount Communities of Interest



- Staff will review each community for strengths, weakness and needs.
- The community-of-interest geographical divisions are not based on zoning classifications.
- In response to questions about why this type of classification is needed when there is already zoning classifications, the town planner pointed out that it would be used to identify specific needs in communities that may or may not correspond with zoning classifications.
- The communities of interest will be a new, more specific component of the Comprehensive Plan, but it will not change the overall goal of the plan.
- Concern was expressed over the communities of interest possibly conflicting with the zoning classifications, and even conflicting in areas when trying to reach conclusions about the needs.
- The Comprehensive Plan will still address zones, since zoning and the Comprehensive Plan is often used by Planning Commission to make decisions.
- An example of how this may be applied: North Main has a large residential population, but there are no public recreation amenities there, like a park or a basketball court. Scuffling Hill, on the other hand, has access to a park. In this manner, staff could look at ways to better each community while still keeping in-line with the overall view of the Comprehensive Plan.

(2) iPads

iPads are on order and should be received within the next two weeks. After that, a training session will be held for Planning Commission and then the transition to paperless agendas will take place.

NEW BUSINESS

(1) *Proposed Changes to Planning & Zoning Fee Schedule*

The town planner advised that staff has been working with the Finance and Human Services Committee to review the planning and zoning fees which have not been updated since 2008, giving consideration to the fees of neighboring localities and how the Town's fees compare, as well as the amount of time required to review certain requests and applications.

The proposed new fee schedule is as follows:



Proposed Development Fees

November 2012

ZONING	Zoning Permit	Single Family Residential	\$ 40
	Zoning Permit	Single Family Residential- Addition	\$ 30
	Zoning Permit	Accessory Structure <200 sf	\$ 25
	Zoning Permit	Accessory structure >200 sf	\$ 35
	Zoning Permit	All Non-Residential Uses/Zones	\$100
	Zoning Compliance Permit		\$ 10
	Zoning Letter		\$125
SPECIAL ZONING	Rezoning	Upzoning to more intensive use	\$600+postage
	Rezoning	All other rezonings	\$350+postage
	Special Exception/Use	Single Family Residence	\$350+postage
	Special Exception/Use	All Others	\$500+postage
	Variance	Single Family Residence	\$250+postage
	Variance - Nonconforming	Post-disaster rebuild/replacement	\$125+postage
	Variance	All Others	\$350+postage
	Zoning Appeals		\$350+postage
Amend Proffers		\$500+postage	
SITES	Site Plan Review	Including Erosion & Sediment	\$975
	Minor Site Plan Review		\$250
	Changes to Approved Site Plan/Resubmittal		\$500
	Final Site Inspection		\$150
	Bond Release		\$150
PLATS	Major Subdivision Plat	Preliminary	\$1,000+\$25 per lot
	Major Subdivision Plat	Final	\$1,000+\$25 per lot
	Minor/Family Subdivision	Five lots or less	\$ 250+\$25 per lot
	Waiver Request		\$1,000
	Line Adjustment/Line Vacation/Easement Plat/Resurvey		\$ 100
E&S	Erosion & Sediment Control Plan Review		\$350
	Changes to Approved E&S Control Plan		\$200
	Land Disturbing Permit		\$ 75+\$100 per acre or partial
	Land Disturbing Permit Agreement In Lieu		\$ 75
	Final Site Inspection		\$150
	Bond Release		\$150
SIGNS	Sign Permit		\$ 50
	Banner Permit		\$ 40
MISCELLANEOUS	Maps	Black & white (up to 11x17)	\$ 3
		Color (up to 11x17)	\$ 5
		Poster	\$ 15
	Subdivision Ordinance		\$ 30
	Water & Sewer Ordinance		\$ 30
	Zoning & Development Ordinance		\$ 75
	Comprehensive Plan		\$ 45
	Water & Sewer Specifications		\$ 30
	Digital Data		\$ 10/file or layer
	Digital Copy of Ordinance		\$ 10
	Lamination		\$ 3/foot
	Scanning		\$ 1/page

Discussion ensued:

- All of the fees did not increase. There are some that stayed the same and some that were reduced. Most of the commercial uses were increased, while the fees affecting homeowners were reduced.

- Zoning Permits for residential uses were tiered so that it now does not cost as much to add an accessory building or an addition as it would to build a new residence. This reflects the fact that it takes less time to review an accessory building request than it does a new home request.
- In comparing the current fee schedule to other localities, staff found that the Town's subdivision review fees were well below other localities.
- The significance of the 200 square feet differentiation in reference to accessory structures is tied to Franklin County's building permit requirements: a building greater than 200 square feet requires a building permit.
- There was general discussion regarding the fee item for a non-conforming variance due to a post-disaster rebuild or replacement and whether or not that line item was needed in reference to Article 39-8-5 of the Zoning and Development Ordinance.
- Plat reviews for subdivisions show a rather large increase in fee. This is due to the fact that it takes many hours to review subdivision plats, with the plat review process for the Oaks at Rakes Tavern development being a prime example.
- Planning Commission liked the fact that the non-commercial fees have been reduced. The town planner clarified that Zoning Letters are generally requested for commercial uses.

Madame Chair Stockton called for additional comments or questions from Planning Commission, and being none entertained a motion:

- Motion was made by Planning Commission Member Clements that Planning Commission recommend to Town Council the approval of the proposed development fees as presented, with motion on the floor being seconded by Planning Commission Member Tiggle. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

(2) *Traffic Management Report*

The town planner reported that over the past several months the Town has been working with contracted engineer Richardson & Wayland to study and tweak the traffic light system for better performance. The outcomes of this study have been as follows:

- As requested by Planning Commission and directed by Town Council, the uptown and downtown lights are now programmed to go into flash mode from 10:00 p.m. until 5:00 a.m. on weekdays, and from 11:00 p.m. until 5:00 a.m. on the weekends.
- Review of the system highlighted some maintenance issues that could be fixed

- in the future to improve overall performance of the system.
- The Lights for Life preemption system was also reviewed, and several problem intersections were identified. A major issue is the pre-existing conditions of the intersections, such as curves, topography, trees, and buildings, which can hinder the line of sight that is needed for the emergency vehicles to trigger the detectors on the Lights for Life System.
 - Advance detectors could be placed at some intersections to enhance the functionality of the system. However, advance detectors can be very costly to install into the existing system, with cost depending on the particular intersection.
 - Overall, the system is working well and is an asset to the Town and its citizens.

COMMISSIONER CONCERNS & STAFF UPDATES

Discussed the following:

- Staff recently sent out a letter to every property owner and business located within the Town's Enterprise Zone, alerting recipients that the Town's Enterprise Zone is scheduled to expire at the end of 2013.
- The Town is no longer allowed to apply for an Enterprise Zone designation on its own, but may apply in conjunction with the County. Discussions are underway with the County regarding this.

ADJOURNMENT

At 6:48 p.m., and with no further business to discuss, Madame Chair Stockton entertained a motion to adjourn, with motion being made by Planning Commission Member Clements, seconded by Planning Commission Member Blanchard, and carried unanimously by those present.

Janet Stockton, Chairman

ATTEST:

Stacey B. Sink, Deputy Clerk
/sbs

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**TOWN OF ROCKY MOUNT
PLANNING COMMISSION
DRAFT MINUTES
DECEMBER 4, 2012
6:00 P.M.**

The Planning Commission of the Town of Rocky Mount, Virginia, met at the Rocky Mount Municipal Building on Tuesday, December 4, 2012 at 6:00 p.m., with Madame Chair Janet Stockton presiding.

The following members of Planning Commission were present when the meeting was called to order: Madame Chair Janet Stockton and Vice Chair John Speidel; and Planning Commission Members Bud Blanchard, Ina Clements, Derwin Hall and John Tiggie. Let the record show that Planning Commission Member Jerry Greer was not present.

The following staff members were present: Assistant Town Manager Matthew C. Hankins, Town Planner Patrick Rust, Town Attorney John Boitnott, Finance Director Linda Woody, and Deputy Clerk Stacey B. Sink.

APPROVAL OF AGENDA

Madame Chair Stockton asked if there were any additions or corrections to the presented agenda, and being none, entertained a motion.

- Motion was made by Planning Commission Member Clements to approve the agenda as presented, with motion on the floor being seconded by Planning Commission Member Blanchard. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

APPROVAL OF MINUTES

Let the record show there were no draft minutes presented for approval at this time.

PUBLIC HEARING

Let the record show there were no public hearings held at this time.

OLD BUSINESS**(1) iPads**

The assistant town manager advised the Planning Commission that the iPads have been received and are in his office. Staff needs to set them up and install software before they can be distributed.

NEW BUSINESS**(1) *Proposed Changes to Town Code regarding Weed & Trash Abatement***

Staff gave the following report:

- This agenda item is a referral from Town Council Member Jerry Greer and specifically concerns the length of time that people have to respond to a summons about weed and trash and whether or not a new level of civil fines or penalties can be instituted for offenders.
- Council members often call staff because they receive complaints from concerned citizens regarding property conditions in Town. Staff, generally the town planner, then performs an inspection on the property.
- Once the property has been inspected and deemed in violation of Town Code, then a letter is sent allowing the property owner 14 days to remedy the situation.
- If the property owner does not mow, then the Town can mow it, but this requires additional letters.
- If the property owner does not claim the letter sent by staff, meaning it is returned by the post office, then staff must physically post a notice on the property in question and wait additional time before mowing.
- Because of this, it can take a month before the Town can actually take action on a property, based on the current code.
- Frequently, there are follow-up calls from Council Members or other citizens expecting a fast remedy on a particular situation, usually a few days after the initial complaint, which are very time consuming.
- In addition, the letters are sent certified which creates additional expense.
- Council Member Greer asked staff and Planning Commission to look at ways of improving the code and possibly recovering some of the cost.
- Staff has not tried to recover civil fines in the past and has typically taken a lenient approach. There are elderly people who must rely on someone else to mow their yards, and people who are sick. However, since the housing market

crashed and lots of homes went into foreclosure, it has been a nightmare, because now staff must deal with banks or other companies that are managing the properties. Most of these companies will do just what they have to do to get by.

- The request is to look at shortening the period of time allowed for someone to mow a yard once a notice of violation has been sent, and to also look at trying to recover some of the cost through the use of civil fines.
- The Town currently does attempt to recover costs if the Town mows the property for the property owner, which is just the cost for the public works crew to mow. The town does not currently seek civil penalties even though they are allowed.
- Community Development currently does not track the collection of these fees, but is refining its process internally to have better tracking of these cases. Most of the fees are not paid until a house is sold, and then it is collected at closing. The fees essentially become a tax lien against the property.
- By the time staff sends a letter, several attempts have generally been made to contact the property owner.
- If a property is inspected and deemed not to be in violation of code, but nearing it, then staff will send a friendly letter asking that the property be mowed before it becomes a violation.
- The Town's legal recourse is with the property owner, but a lot of the properties are rental properties, and it is the renters that are not mowing the yard, not the property owner. Still, it is the property owner's responsibility. In one such case the property owner suggested that he was going to start addressing the issue with his rental agreement.
- Spring, summer and early fall is the hot time for weed and trash complaints, and also inoperable vehicles. There are approximately 10 to 15 property owner repeat violators every year. Staff wants to focus on the repeat violators.

The Town Attorney offered the following information:

- Under the current ordinance, if weeds are over 14 inches in height, then the property is in violation, and the property owner is entitled to notice of that violation, and is given 14 days to abate it. At the end of 14 days, if the property owner has not abated the conditions, then the Town can abate it for the property owner at the Town's cost.
- On the first abatement, the Town is entitled to collect the cost of the abatement, plus it is entitled to an administrative fee of \$50.00. The abatement must be performed before the Town can collect any money. This fee is transferred to the Finance Department where a lien is placed against the property in the same manner as for unpaid taxes. This is generally taken care

- of when the property is sold or refinanced.
- It would not be sound fiscal policy to pursue legal action to collect these small amounts.
 - The property owner can be charged with a class 4 misdemeanor and there are instances in which repeat offenders were charged and brought to court.
 - If an offender has more than one abatement in a 12-month period, then in addition to the cost of the abatement and a \$50.00 administrative fee, there can be \$100.00 civil penalty added to a second or subsequent abatement.
 - The administrative fee and civil penalty cannot be imposed until the Town does the abatement.
 - Virginia code will allow for up to \$200.00, and also provides for a “reasonable period of time” for the abatement to occur.

Discussion by Planning Commission ensued:

- Is 14 days too long?
- 14-inch tall grass did not get that tall over night, and then if waiting for 14 days to remedy, it will be quite an eyesore.
- Can the length of grass be considered as well?
- The town attorney noted that the City of Roanoke ordinance, which is comparable to the Town’s ordinance, is at 10 inches and provides for a seven day notice.
- Property owners on either side of the violating properties are the ones who are suffering.
- It would probably take 2.5 weeks for grass to reach 10 inches.
- There does not appear to be a way to recover the certified fees.
- What about the property on South Main that only mows around the edges? This property is within code because it is undeveloped and over one acre.
- There are three things to consider: (1) the height of the grass; (2) the number of days allowed to abate the problem; and (3) the civil penalty amount.
- It was the consensus of Planning Commission to recommend a height of ten inches, and seven days from the day the letter is mailed to abate (which constitutes legal notice).
- Does a class 4 misdemeanor allow for a fine of up to \$100? Can it be made a higher class misdemeanor?
- The town attorney will prepare a draft ordinance, taking into account Planning Commission’s recommendations, and will present it to Planning Commission again for recommendation to Town Council.

(2) 2013 Meeting Calendar

Staff is presenting the 2013 meeting calendar for Planning Commission's review. This is important to review early in reference to advertising deadlines. There are a couple of suggested changes, being:

- Tuesday, January 1 is a conflict due to it being a holiday. The suggested change is to Tuesday, January 8.
 - The November meeting falls on Election Day. This year is a gubernatorial election, and staff recommends changing this meeting to the following Wednesday.
 - These are the only noted changes affecting Planning Commission's meeting calendar.
 - Concern was expressed about the April meeting date and its conflict with spring break.
- Motion was made by Vice Chair Speidel to accept the proposed 2013 meeting calendar as presented, with motion on the floor being seconded by Planning Commission Member Hall. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

COMMISSIONER CONCERNS & STAFF UPDATES

Discussed the following:

- The finance director pointed out that all Planning Commission members will be considered employees of the Town effective January 1. This is in relation to the stipend members receive for meeting attendance.
- The assistant town manager gave an update on the recent community meeting which was held for the west side of Town and noted that the plan is to do quarterly community meetings.
- Discussed the status of 20 Spring Street.
- The Pigg River Bridge replacement project is underway.
- Vice Chair Speidel expressed concern about the pedestrian crosswalk at the hospital with the flashing lights.
- Planning Commission Member Hall expressed concern about the crosswalk on the corner at Carter Bank & Trust.
- Discussed the sidewalk project for 40 East.

ADJOURNMENT

At 6:50 p.m., and with no further business to discuss, Madame Chair Stockton entertained a motion to adjourn, with motion being made by Planning Commission Member Clements, seconded by Planning Commission Member Tiggle, and carried unanimously by those present.

Janet Stockton, Chairman

ATTEST:

Stacey B. Sink, Deputy Clerk

/sbs

**TOWN OF ROCKY MOUNT
PLANNING COMMISSION
DRAFT MINUTES
JANUARY 8, 2013
6:00 P.M.**

The Planning Commission of the Town of Rocky Mount, Virginia, met at the Rocky Mount Municipal Building on Tuesday, January 8, 2013 at 6:00 p.m., with Vice Chair John Speidel presiding.

The following members of Planning Commission were present when the meeting was called to order: Vice Chair John Speidel and Planning Commission Members Bud Blanchard, Ina Clements, Derwin Hall and John Tiggie. Let the record show that Madame Chair Janet Stockton and Planning Commission Member Jerry Greer were not present.

The following staff members were present: Assistant Town Manager Matthew C. Hankins, Town Planner Patrick Rust, and Deputy Clerk Stacey B. Sink.

APPROVAL OF AGENDA

Vice Chair Speidel asked if there were any additions or corrections to the presented agenda, and being none, entertained a motion.

- Motion was made by Planning Commission Member Clements to approve the agenda as presented, with motion on the floor being seconded by Planning Commission Member Blanchard. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

APPROVAL OF MINUTES

Let the record show there were no draft minutes presented for approval at this time.

PUBLIC HEARING

Let the record show there were no public hearings held at this time.

OLD BUSINESS

Let the record show there was no old business submitted for discussion at this time.

NEW BUSINESS

Let the record show there was no new business submitted for discussion at this time.

WORK SESSION

(1) iPad training

A work session was held to familiarize Planning Commission members with how to use an iPad.

COMMISSIONER CONCERNS & STAFF UPDATES

There were no concerns or updates presented at this time.

ADJOURNMENT

At 8:00 p.m., and with no further business to discuss, Vice Chair Speidel entertained a motion to adjourn, with motion being made by Planning Commission Member Clements, seconded by Planning Commission Member Hall, and carried unanimously by those present.

John Speidel, Vice Chair

ATTEST:

Stacey B. Sink, Deputy Clerk

/sbs

IN THE COUNCIL OF THE TOWN OF ROCKY MOUNT

AN ORDINANCE of the Town of Rocky Mount amending Chapter 22, Article II, Division 2 of the Code of the Town of Rocky Mount, Virginia (2002), in part, and providing for changes to weed and trash abatement in the Town of Rocky Mount.

BE IT ORDAINED by the Council of the Town of Rocky Mount that Chapter 22, Article II, Division 2 of the Code of the Town of Rocky Mount, Virginia (2002), is amended in part to read and provide as follows:

DIVISION 2. WEED AND TRASH ABATEMENT

Sec. 22-56. Definitions.

(a) Abatement cost means the town's cost of labor, equipment and supplies for, or the contract price of and any charges to the town with respect to, its removal and disposal of weeds or trash from a parcel.

(b) Town manager means the town manager or his designee.

(c) Public nuisance means a state of facts requiring governmental action for the establishment and maintenance of public health, safety, order and convenience.

(d) Owner means any person shown by any public record maintained by any circuit court, general district court, treasurer, commissioner of revenue or town clerk to have an interest in a parcel located in the town, as of the date of the abatement of public nuisance under this article or any successor in title taking with actual or constructive notice of the existence of a public nuisance.

(e) Parcel means any real estate (and any interest therein) located in the town identified by a tax map number according to the Franklin County land books, including the area in the public right of way which is between the property line of the parcel and the and the curb, the improved portion of a roadway, or the centerline of any alley or unimproved street. The term shall not include any real estate located in a RA Residential Agricultural District as defined elsewhere in this Code.

cleaned up the language and included ROW

(f) Trash means abandoned personal property, garbage, refuse or debris openly lying on any parcel, which might endanger the health of other residents of the town.

(g) Weed or weeds means any plant, grass or other vegetation over ten (10) inches high growing upon a parcel in the town, including,



reduced the height constituting a violation from 14 inches to 10 inches.

but not limited to, any sage brush, poison oak, poison ivy, Ailanthus Altissima (commonly called Tree of Heaven or Paradise Tree), ragweed, dandelions, milkweed, Canada thistle, and any other undesirable growth, excluding trees, ornamental shrubbery, vegetable and flower gardens purposefully planted and maintained by the property owner or occupant free of weed hazard or nuisance, hayfields, cultivated crops, or undisturbed woodland not otherwise in violation.

Sec. 22-57. Weeds and trash declared public nuisance; abatement required.

Weeds growing or trash lying on any parcel shall constitute a public nuisance, except that in the case of a parcel greater than one acre in area natural vegetation growing more than fifty (50) feet from every property line shall not constitute a public nuisance. It shall be unlawful to cause or allow a public nuisance with respect to any parcel. The owner of any parcel shall abate any public nuisance with respect to his parcel.

increased the required mowing buffer from 5 feet to 50 feet

Sec. 22-58. Weeds and trash prohibited; duty of owner to remove weeds and trash.

It shall be unlawful and a public nuisance for the owner of any parcel to allow weeds, as defined herein, to grow or trash to stand upon such parcel. It shall be the duty of the owner of any parcel to immediately cut, remove or destroy any and all weeds and to remove trash on his parcel. Any owner who shall violate any provision of this section shall be subject to a civil penalty not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within twelve (12) months of the first violation shall not exceed \$200. Each business day during which the violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a twelve (12) month period. In the event three (3) civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a twenty-four (24) month period, such violations shall be a Class 3 misdemeanor. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

brought application of civil penalties into compliance with State code. NOTE: State now allows 3 class 3 misdemeanor instead of class 4.

Sec. 22-59. Notice of removal of weeds.

(a) Whenever the town manager determines that a public nuisance exists with respect to any parcel, the town manager shall serve the owner of the property with personal service a notice of violation

or shall mail a notice of violation by United States Postal Service certified mail to the owner of the parcel at the owner's address, as determined from public records. Any written notice provided under this section shall state that there exists a public nuisance with respect to the parcel and demand the abatement of the nuisance within seven (7) days following the personal service or mailing of the notice. Such notice, when served in person or addressed and deposited with the postal service with proper postage prepaid, shall be deemed complete and sufficient. In the event such notice is not served or returned by the postal authorities or if the owner's address is unknown, the town manager shall cause a copy of the notice to be posted in a conspicuous place on the parcel. The posting shall be accomplished at least seven (7) days prior to the abatement of the public nuisance with respect to that parcel.

* Shortened from 14 days to 7 days

(b) The notice shall:

- (1) Be in writing;
- (2) Set forth the alleged violation of this article;
- (3) Describe the parcel of real property where the violations are alleged to exist or to have been committed;
- (4) Advise that if the weeds or trash are not removed within the prescribed time, the town will proceed to abate the nuisance with the costs thereof together with an administrative fee, penalty, and interest authorized by this article being specially assessed against the owner and the parcel;
- (5) Advise that the cost of abatement together with the administrative fee, civil penalty, and interest constitutes a lien against the property in favor of the town; and
- (6) Advise that within seven days (7) of the personal service, certified mailing, or posting of the notice on the property, the owner may appeal to the town manager stating in detail the reasons why the proposed action should not be taken.

Corrected language

(c) In the event the owner appeals the proposed abatement as provided for above, the town manager shall set a hearing and notify the owner of the time and location of a hearing to be held within five days from the date of the town manager's receipt of the appeal. At any hearing, the town manager shall hear and investigate any objection that may be raised and take action in response as he may deem reasonable.

(d) Any notice sent by the town manager to any owner of a parcel which, because of weeds or trash, has been declared a public nuisance under this article and which notice otherwise complies with the requirements of this section, shall constitute complete and sufficient notice for any similar condition during the same period of April 1 until November 1 in which notice was sent.

Added this item per state code... no notice is required for repeat violations which occur within the listed timeframe.

Sec. 22-60. Abatement of public nuisance.

→ previously 14 days.

(a) If the owner shall fail or neglect to complete abatement of the public nuisance as required within seven (7) days of personal service, certified mailing, or posting of the notice on the property, whichever is applicable, or if the owner fails to continue to comply with the requirements of this section, the town manager may direct in writing that town forces abate or complete the abatement of such public nuisance or the town manager may contract for this abatement on behalf of the town with a private contractor.

↓ reference 22-59(d)

(b) Any owner may abate the public nuisance himself without liability to the town, provided that he completes the abatement prior to commencement or abatement by town personnel or any private contractor on behalf on the town.

Sec. 22-61. Accounting for abatement costs. * Removed 'civil penalty' from title

The town manager shall keep an account of the cost of abating public nuisances and embody such account in periodic reports with assessment lists which shall be transmitted to the town finance director at convenient intervals. The copy retained by the town finance director shall be available for public inspection. The reports shall refer to each parcel as to which public nuisance was abated by description sufficient to identify the parcel, and specify and include an additional administrative fee of \$50.00 dollars hereby ordained to be assessed against each owner; the cost of abatement including but not limited to a minimum of two hours labor as well as other reasonable charges for equipment; and interest authorized by this article.

Sec. 22-62. Notice to owner of abatement costs. — removed 'past abatement hearing' from title, no longer required

(a) Upon completion of the reports and assessments list, the town manager shall send by certified mail to each owner at his address as determined from public records a notice including a statement to the owner of the abatement cost and the administrative fee. * The notice shall provide that upon confirmation by the town manager of the abatement cost and administrative fee, they shall constitute special assessments against the owner and the parcel, a personal obligation to the owner, and a lien upon the owner's parcel from the date and time of the recordation of the notice of lien, and from the date of such confirmation, until paid, bear interest at the legal rate, and that any fees, charges or costs for the abatement of a nuisance thereof shall be collected in any manner provided by the Code of Virginia (1950), as amended, for the collection of state and local taxes.

removed references to civil penalties and cleaned up language.

→ per JTB, if we do not issue a citation and go to court, then there is no civil penalty for a violation. Civil penalties are imposed only by the court. If we abate the nuisance, we charge a \$50.00 admin fee plus costs, and file a lien against the property.

(b) The town manager shall cause a notice of the lien of the special assessment prepared by the town attorney to be recorded in the clerk's office of the circuit court of the county. The town attorney may take appropriate steps including a personal or in rem suit or action in the appropriate court to enforce the lien to satisfy the special assessment.

removed references to a 'post abatement hearing'

(c) The finance director, when in his discretion it is just and proper to do so, may waive liens imposed pursuant to this section whenever doing so will facilitate the sale of the property and encourage its productive reuse. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

This ordinance shall be in full force and effect as of the date of its adoption.

Adopted this ____ day of _____, 2013

Ayes:

Nays:

Present: _____

____ Absent:

_____ APPROVED:

_____ Mayor

ATTEST:

Clerk

Approved as to form:

Town Attorney

Rocky Mount, Virginia, Code of Ordinances >> PART II - CODE >> **Chapter 22 - ENVIRONMENT >> ARTICLE II. - NUISANCES >> DIVISION 2. - WEED AND TRASH ABATEMENT >>**

DIVISION 2. - WEED AND TRASH ABATEMENT

Sec. 22-56. - Definitions.

Sec. 22-57. - Weeds and trash declared public nuisance; abatement required.

Sec. 22-58. - Weeds and trash prohibited; duty of owner to remove weeds and trash.

Sec. 22-59. - Notice of removal of weeds; preabatement hearing.

Sec. 22-60. - Abatement of public nuisance.

Sec. 22-61. - Accounting for abatement costs; civil penalty for subsequent abatement.

Sec. 22-62. - Notice to owner of hearing on abatement costs; post-abatement hearing.

Secs. 22-63—22-100. - Reserved.

Sec. 22-56. - Definitions.

- (a) Abatement cost means the town's cost of labor, equipment and supplies for, or the contract price of and any charges to the town with respect to, its removal and disposal of weeds or trash from a parcel.
- (b) Town manager means the town manager or his designee.
- (c) Public nuisance means a state of facts requiring governmental action for the establishment and maintenance of public health, safety, order and convenience.
- (d) Owner means any person shown by any public record maintained by any circuit court, general district court, treasurer, commissioner of revenue or town clerk to have an interest in real estate located in the town, as of the date of the abatement of public nuisance under this article or any successor in title taking with actual or constructive notice of the existence of a public nuisance.
- (e) Parcel means any real estate (and any interest therein) located in the town identified by a tax map and parcel number according to the county land books, except any parcel located in a RA residential agricultural district as defined elsewhere in this Code.
- (f) Trash means abandoned personal property, garbage, refuse or debris openly lying on any parcel, which might endanger the health of other residents of the town.
- (g) Weed or weeds means any plant, grass or other vegetation over 14 inches high growing upon private property in the town, including, but not limited to, any sage brush, poison oak, poison ivy, Ailanthus Altissima (commonly called Tree of Heaven or Paradise Tree), ragweed, dandelions, milkweed, Canada thistle, and any other undesirable growth, excluding trees, ornamental shrubbery, vegetable and flower gardens purposefully planted and maintained by the property owner or occupant free of weed hazard or nuisance, hayfields, cultivated crops, or undisturbed woodland not otherwise in violation.

(Ord. of 8-14-00, § 1; Ord. of 12-11-06)

Sec. 22-57. - Weeds and trash declared public nuisance; abatement required.

Weeds growing or trash lying on any parcel shall constitute a public nuisance, except that in the case of a parcel greater than one acre in area, natural vegetation growing not more than five feet

from every property line shall not constitute a public nuisance. It shall be unlawful to cause or allow a public nuisance with respect to any parcel. The owner of any parcel shall abate any public nuisance with respect to his parcel.

(Ord. of 8-14-00, § 2; Ord. of 12-11-06)

Sec. 22-58. - Weeds and trash prohibited; duty of owner to remove weeds and trash.

It shall be unlawful and a public nuisance for the owner of any parcel to allow weeds, as defined herein, to grow or trash to stand upon such parcel. It shall be the duty of the owner of any parcel to immediately cut, remove or destroy any and all weeds and to remove trash on his parcel. Any owner who shall violate any provision of this section shall be deemed to be guilty of a class 4 misdemeanor, and each day that such weeds shall remain uncut or such trash is allowed to stand after the period within which they are required hereunder to be cut or removed shall be deemed to constitute a separate offense under this section.

(Ord. of 8-14-00, § 3; Ord. of 12-11-06)

Sec. 22-59. - Notice of removal of weeds; preabatement hearing.

- (a) Whenever the town manager determines that a public nuisance exists with respect to any parcel, he shall mail by United States postal service certified mail to the owner of the parcel at the owner's address, as determined from public records, written notice that there exists a public nuisance with respect to the parcel and demand the abatement of the nuisance within 14 days following the mailing of the notice. Such notice, when so addressed and deposited with the postal service with proper postage prepaid, shall be deemed complete and sufficient. In the event that such notice is returned by the postal authorities or if the owner's address is unknown, the town manager shall cause a copy of the notice to be posted in a conspicuous place on the parcel. The posting shall be accomplished at least 14 days prior to the abatement of the public nuisance with respect to that parcel.
- (b) The notice shall:
 - (1) Be in writing;
 - (2) Set forth the alleged violation of this article;
 - (3) Describe the parcel of real property where the violations are alleged to exist or to have been committed;
 - (4) Advise that if the weeds or trash are not removed within the prescribed time, the town will proceed to abate the nuisance with the costs thereof together with an administrative fee, penalty, and interest authorized by this article being specially assessed against the owner and the parcel;
 - (5) Advise that the cost of abatement together with the administrative fee, civil penalty, and interest constitutes a lien against the property in favor of the town; and
 - (6) Advise that within seven days of the certified mailing of the notice or posting, whichever is applicable, the owner may appeal to the town manager stating in detail the reasons why the proposed action should not be taken.
- (c) In the event the owner appeals the proposed abatement as provided for above, the town manager shall set a hearing and notify the owner of the time and location of a hearing to be held within five days from the date of the town manager's receipt of the appeal. At any hearing, the town manager shall hear and investigate any objection that may be raised and take action in response as he may deem reasonable.

(Ord. of 8-14-00, § 4; Ord. of 12-11-06)

Sec. 22-60. - Abatement of public nuisance.

- (a) If the owner shall fail or neglect to complete abatement of the public nuisance as required within 14 days of mailing of notice or of posting, whichever is applicable, the town manager may direct in writing that town forces abate or complete the abatement of such public nuisance; or the town manager may contract for this abatement on behalf of the town with a private contractor.
- (b) Any owner may abate the public nuisance himself without liability to the town, provided that he completes the abatement prior to commencement or abatement by town personnel or any private contractor on behalf on the town.

(Ord. of 8-14-00, § 5; Ord. of 12-11-06)

Sec. 22-61. - Accounting for abatement costs; civil penalty for subsequent abatement.

The town manager shall keep an account of the cost of abating public nuisances and embody such account in periodic reports with assessment lists which shall be transmitted to the town finance director at convenient intervals. The copy retained by the town finance director shall be available for public inspection. The reports shall refer to each parcel as to which public nuisance was abated by description sufficient to identify the parcel, and specify and include an additional administrative fee of \$50.00 hereby ordained to be assessed against each owner; the cost of abatement including but not limited to a minimum of two hours labor as well as other reasonable charges for equipment; and interest authorized by this article. If an owner is found to have a subsequent abatement not arising from the same set of operative facts within 12 months of the first abatement, the owner shall be assessed a civil penalty of \$100.00 in addition to the abatement costs and administrative fee.

(Ord. of 8-14-00, § 6; Ord. of 12-11-06)

Sec. 22-62. - Notice to owner of hearing on abatement costs; post-abatement hearing.

- (a) Upon completion of the reports and assessments list, the town manager shall send by certified mail to each owner at his address as determined from public records a notice including a statement to the owner of the abatement cost, administrative fee, and civil penalty. The notice shall also advise the owner of his right to object to, to be heard upon, and contest the amount of the abatement costs. The notice shall further provide that upon confirmation by the town manager of the abatement cost, administrative fee, and civil penalty, they shall constitute special assessments against the owner and the parcel, a personal obligation to the owner, and a lien upon the owner's parcel from the date and time of the recordation of the notice of lien, and from the date of such confirmation, until paid, bear interest at the legal rate, and that any fees, charges or costs for the abatement of a nuisance thereof shall be collected in any manner provided by the Code of Virginia for the collection of state and local taxes.
- (b) The owner shall have 14 days from the date of receipt of the notice of assessment to appeal the amount of the assessment to the town manager. The town manager shall set a hearing and notify the owner of the time and location of a hearing for the purpose of hearing the owner's objections to and comments upon the report and proposed assessment, of correcting any mistakes or inaccuracies in these documents and of confirming the same. If the owner does not appeal the assessment as stated in the notice, the assessment shall be deemed to be confirmed.
- (c) With respect to all assessments remaining unpaid 14 days after confirmation, the town

manager shall cause a notice of the lien of the special assessment prepared by the town attorney to be recorded in the clerk's office of the circuit court of the county. The town attorney may take appropriate steps including a personal or in rem suit or action in the appropriate court to enforce the lien to satisfy the special assessment.

- (d) The finance director, when in his discretion it is just and proper to do so, may waive liens imposed pursuant to this section whenever doing so will facilitate the sale of the property and encourage its productive reuse. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

(Ord. of 8-14-00, § 7; Ord. of 12-11-06)

Secs. 22-63—22-100. - Reserved.