

**TOWN OF ROCKY MOUNT
PLANNING COMMISSION
MINUTES
APRIL 6, 2010
6:00 P.M.**

The Planning Commission of the Town of Rocky Mount, Virginia, met at the Rocky Mount Municipal Building on Tuesday, April 6, 2010 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 Planning Commission Members Ina Clements, Bobby Cundiff, Jerry Greer, Derwin Hall, and John Tiggle. Let the record show that Vice Chair John Speidel was not present.

The following staff members were present when the meeting was called to order: Assistant Town Manager Matthew C. Hankins, Deputy Clerk Stacey B. Sink, and Town Attorney John Boitnott.

APPROVAL OF AGENDA

Madame Chair Stockton asked if there were any additions or corrections to the presented agenda. There being none, Madame Chair Stockton 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 Cundiff. 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, the Planning Commission received a copy of the following minutes for review and consideration of approval:

- March 2, 2010 – Regular Meeting Minutes
- March 23, 2010 – Joint Work Session with Town Council

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

and being none, entertained a motion.

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

PUBLIC HEARINGS

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

OLD BUSINESS

(1) Review Staff Suggestions for Arts & Culture District code and incentives

Madame Chair Stockton called upon the Assistant Town Manager to address the Commission in reference to the Arts & Culture District.

The Assistant Town Manager advised that per Planning Commission's direction he made some changes to the General Provisions draft document and he noted the following points:

- The Code of Virginia now authorizes the locality to offer incentives to try to attract and create new retail businesses using arts and culture as a magnet.
- In putting this together, he has drafted code that will allow the Town Manager to either be or designate the administrator for this district, someone who will be the arbiter as to whether a business meets the code and qualifies for the incentives.
- Qualified arts organizations have been defined and staff has been very broad in that approach, including theaters, art galleries and studios for the production or and/or sale of artistic works, museums, dance studios, bookstores, microbreweries or microdistilleries, for-profit educational centers for the production of materials used in, or completed products of, traditional and cultural arts and restaurants which support the arts through regularly scheduled cultural performances and displays of graphic arts for sale.
- For purposes of this ordinance, no business activity relating to "body art" may qualify for incentives.
- The boundaries will run from South Main Street, in front of the Franklin County History Museum, following the centerline of the street north to along

Main Street to the intersection with Franklin Street, westward to Diamond Avenue, westward to Maynard Street to the intersection with East College Street, returning along East College Street to Franklin Street, westward to the intersection with Floyd Avenue, returning again to South Main Street.

- Any parcel within or touching on those boundaries will qualify for the incentives.
- This is primarily to boost future retail growth in the uptown and downtown areas in which the Town has made significant investments, with the hopes of filling the available, vacant retail space.
- Under this proposal, the taxes that will be eligible for exemption are the gross receipts taxes, which are the Business, Professional and Occupational License Tax (BPOL), Meals Tax, Personal Property Tax, Real Property Tax, and any local incentive that is currently offered in the Enterprise Zone, which includes things like waiving water and sewer connection fees, sign, zoning fees, etc.
- There would be a form that businesses would fill out indicating they are a qualifying business and staff will work out a schedule for how often the incentives would be paid back.
- Also included in the General Provisions are Other Incentives which will allow for the temporary or permanent installation of artistic murals, statues or other similar public expressions of art, provided those expressions meet community content standards and are primarily not commercial in nature.
- Under the administration, Vice Chair Speidel had been particularly interested in the Planning Commission not being the appeals agent for any appeal that may be undertaken as a result of the administrator's decision, and this has been changed to Town Council as a result of that discussion.

The Assistant Town Manager asked for any questions from Planning Commission regarding the General Provisions, with questions being as follows:

- Planning Commission Member Greer questioned the payback of incentives, with the Assistant Town Manager clarifying that payback of incentives would be done on a regular basis, every three months for example, so that it won't be a monthly process but will be consistent.
- Planning Commission Member Cundiff questioned how the present businesses will be affected. The Assistant Town Manager noted that present businesses would be included and will be eligible for a full three years of incentives as currently proposed.
- Planning Commission Member Greer questioned if, for instance, this would allow the Town to abate the meals tax for Edible Vibe for three years. The

Assistant Town Manager clarified that the way it is written in the General Provisions, the Town would abate the highest gross receipts tax that the business pays. Therefore, if the business pays more in BPOL then in would get half its BPOL back the first year and if more in Meals Tax, then half of that back the first year.

- Planning Commission Member Greer questioned what the benefit would be to a business like Edible Vibe. The Assistant Town Manager advised there would be a number of benefits. The more business Edible Vibe does, the more it will get back in terms of the grant. He further stated that the Ordinance addresses this.

The Assistant Town Manager presented the major points of the Ordinance as follows:

- The administrator may authorize a return of a percentage of the single highest gross receipts tax paid by a qualifying business for up to three years, with such return designated as a cash grant on the following ratios; first year, 50-percent of the amount of total gross receipts; second year, 30-percent of the amount of total gross receipts; third year, 20-percent of total gross receipts.
- If the business also owns the building then it would be qualified for the whole thing. However, as part of the discussion from the joint meeting, he was asked to try to find a way to reward landlords for seeking high-quality businesses or renting to people who will generate more in income.
- This ordinance was drafted so that if a business is located in a building not owned by the business, the business shall be entitled to four-fifths of the grant, and the property owner shall be entitled to a one-fifth grant, at least half of which must be used for real property improvements to the property from which the funds were generated.
- The landlords would not have to accept the grant, but this would be a good way to reward them for bringing in good businesses and to get them to reinvest in their properties.
- Such grants may be discontinued or refused if a business becomes non-qualifying. Grants may be made at regular times designated by the administrator working with the Finance Director.
- He further stated that he would really like some feedback on this provision. Is Planning Commission happy with this? Is it enough?

Discussion and questions ensued by Planning Commission:

- Madame Chair Stockton questioned if this provision would stay the same for

existing businesses, with the Assistant Town Manager confirming that it would.

- Planning Commission Member Cundiff asked for clarification on existing businesses that have been open for years who do not meet all of the criteria listed. Would they receive any benefits? The Assistant Town Manager advised that they would not; however, they could change their business to meet the criteria, by adding musical performances or another line to their retail offerings.
- Planning Commission Member Cundiff stated that in other words, the businesses that have been supporting the weight for all the years are going to be left out and the new businesses will be promoted. The Assistant Town Manager confirmed that if the business is not tied to arts and culture then there would be no way to tie it in to the ordinance. Planning Commission Member Greer questioned if the business could change its character by adding Crooked Road CD's and tapes to its offerings. The Assistant Town Manager addressed this comment stating that in his mind, the Town wouldn't want to allow this just so a business could qualify for the incentives. There would need to be a substantial part of the business that is related to arts and culture. For example, a shoe shop adding a few CD's in the front window would not qualify because it is not an arts and culture business, it is a shoe shop, and allowing that would get outside of what the legislation was intended to do.
- Planning Commission Member Hall stated that his understanding is that this ordinance is to create an arts and culture district to try and get more of those types of businesses in, to create a community, and to have an impact as it pertains to the Crooked Road.
- Planning Commission Member Clements stated that she agreed with Planning Commission Member Cundiff, in that businesses that have been here for years as the foundation of the Town should also have some incentives. The Assistant Town Manager addressed the comment, stating that if the business is an arts and culture related business then it would have incentives, but unfortunately, if it is not, then this ordinance would not pertain to the business. From the community development standpoint, he added that he would like to do something for the businesses that have contributed to the growth and continued operation of the Town; however, it needs to be done separately from this ordinance. He also clarified that any incentives offered to the existing businesses must be authorized by the General Assembly, and he would have to do some research on what the Town can offer.

The Assistant Town Manager presented the remainder of the draft ordinance as

follows:

- The administrator may authorize the return of real property taxes paid by the property owner housing qualified businesses to the property owner for a period up to five years from the opening of a qualified business. He advised that he went longer on the three years for this particular incentive because it is going to be a fairly small incentive.
- The General Provisions allow for the abatement of both the real property tax and the personal property tax. The Assistant Town Manager asked Planning Commission for guidance on these particular items, questioning if both abatements should be offered, as the personal property tax will go back to the business and the real property tax will go back to the property owner. Both will be small incentives.
- Town Council has discussed in the past but has not funded or set up rules for granting music grants. There was a proposal in last year's budget to put in \$15,000 to fund live music grants to play into the Town's role with the Crooked Road. He has included in the ordinance that the administrator may authorize live music performance incentive grants to qualifying businesses, provided funds are appropriated by Town Council for such purpose.
- The administrator may waive fees for zoning actions or utility connection for qualifying businesses.
- In closing, the Assistant Town Manager advised this is as far as he has gone with the ordinance, and the Town Attorney may have some revisions as to form before it goes into the code book. He opened the floor for any questions by Planning Commission.

There being no questions at this time, Madame Chair Stockton moved on to the next business item:

(2) Public Input Session for Arts & Culture District

Madame Chair Stockton welcomed any business representatives and the general public to come forward to speak at this time.

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

The Assistant Town Manager advised that if there is no public input, the next step forward would be for Planning Commission to authorize for staff to proceed, allowing the Town Attorney to review the draft code and ordinance, and then holding a public hearing in May or when Planning Commission sees fit.

Discussion ensued:

- Planning Commission Member Hall questioned if there had been enough public input regarding the proposed district, stating that he feels there hasn't been *any*. Questions have been raised and there might be people in the community who would like to have input.
- Planning Commission Member Greer advised that what the Town is trying to do is to fill up some empty buildings, and the Town needs to give incentives to get businesses in.
- Following this discussion, a member of the audience expressed an interest in speaking. Madame Chair Stockton invited him to the podium and asked that he identify himself for the record. Planning Commission Member Clements recognized that there were several people present in the audience, and she invited them all to speak, stating that Planning Commission welcomes their input.

Jeremy Simpson came forward stating that his business is registered with the Town as Kringle. He stated that he heard some discussion about what would qualify, but he doesn't know enough about the process for approval, checks and balances, etc. He also heard something about trying to keep the tattoo industry out, which he feels could be open to litigation for unfair business practices. The Assistant Town Manager addressed this comment stating that it would not keep the tattoo industry from locating here, but it would keep them from qualifying for incentives. Mr. Simpson questioned if this kind of "economic disadvantage" would be legal, with the Assistant Town Manager advising that in this instance it would be defensible, as this is a very low volume sort of business, and the intent of the ordinance is fill up the available space downtown with higher volume businesses. He also clarified that currently a tattoo or piercing shop would have to apply for a special use permit to be located in Town. Mr. Kringle stated that it just seems to him that if there is grant money available, it will have certain requirements, and as long as those requirements are met then there is some flexibility as to how the funds are used, and it would be in the best interest of all the businesses in Town to get the most bang for the buck. This is where process review is important. Planning Commission Member Greer clarified to Mr. Simpson that this grant is not a state grant, but rather a Town of Rocky Mount grant, and the whole idea is to help the small businesses in downtown/uptown to stay in business. If a business can stay open for three to five years, then most of the time it will survive. Mr. Simpson advised that it seems to him that the Town has allocated a pool of money that it is going to put to a certain purpose. Planning Commission Member Greer clarified that this is not the case. These are incentives, water and sewer hook ups, taxes, etc. that are very similar to

the five-dollar incentive program that the Town just offered. Mr. Simpson added that in order to offer intelligent public input he feels like he needs to review the material. Planning Commission Member Greer advised that he would really like Mr. Simpson's input in this process.

John Schopp, owner of Edible Vibe Café and Center Stage Catering, came forward to speak, stating that he is also the property owner. He came here today primarily for information, and as a young business person, he feels that the business climate is tough and has been tough for some time. This district sounds like a great thing. He truly appreciates Planning Commission Member Cundiff's remarks about existing businesses. He has been on Franklin Street for about eight years now, and is considered a new business, but would also be an existing business compared to new businesses coming in. He thinks it is very important to look out for the folks who have been positively holding the community down. On the street, there is a shoe and lock business and a dress boutique that he is guessing would not be considered cultural/art. There is also a hardware store across the street, and he hopes there is never a day that the family owned hardware stores go away. There should be a way to pull these businesses in. Perhaps J&J Fashions could bring in a designer line as fashion is art. A cobbler is definitely an artisan. There could even be a way with the hardware store, perhaps by bringing in heirloom seeds or blacksmith's tools, as a way to qualify. This needs to be fair for everyone involved on the street. He understands that there are a lot of vacant buildings. There were a lot of vacant buildings when he was looking for a home for his business, and when the library came, this was enough commitment for him to see that there was commitment for this street in the community. He further added that as a restaurateur, he feels that food and beverage taxes are unfair to his industry. It puts him in direct competition with grocery stores, and the national trend is that 30-percent less people are eating out. Roanoke City just past a two-percent increase on their food and beverage to save their school system. To a business owner, taxes are an important issue. There is a great workforce and there are good, honest people in the County. This is what makes people want to locate a business here. Businesses should be looked at both ways, in terms of the taxes they bring, but also in terms of the value they bring to the community, and balance is the right answer. He would not like to see the street become strictly art boutiques, and he hopes that the hardware will stay, and he enjoys having a locksmith and a cobbler right up the street as well. Diversity is very important as the Town moves forward, and there should be a sense of who has been pushed out or not included. He commends the Town's efforts for what it is trying to do. He commends the '5 on Us' program, as it was very out-of-the-box, and it was a nice thought when everything was coming at businesses in the opposite way, like bank loans going up, insurance, minimum wage going up, tax increases,

etc. He asked that the Town use wisdom in doing this, especially in including existing businesses that may not be arts related, or at least think of something for them.

Planning Commission Member Hall advised that after hearing the public speak, he thinks it would be a good idea for the Assistant Town Manager to explain the genesis of this. The Town has found a place to provide incentives because of a statute that was passed by the state of Virginia that is specifically for arts and culture. The Assistant Town Manager addressed his comment stating that this was something new the General Assembly authorized last July, and the Town started discussing it shortly thereafter. The unusual nature of this is that it allows localities to come up with their own broad incentives. It is very unusual for the General Assembly to allow this. In drafting the code and ordinance, he has struggled over what to offer and who to offer it to. The perspective that fashion is art and that a cobbler is a traditional artist is valuable, and maybe there are some ways that this could be broadened out, but it must be something that Planning Commission, Town Council, and the community is comfortable with, and that fits from a budget standpoint. If it is broadened out too far then it may not have the impact that the Town is seeking, but he is not sure where the dilution point will be reached. If Planning Commission would rather that he research the fiscal impact of this, he could research it over the next 30 days and bring the information, to give an idea of what the fiscal impact is going to be on the Town.

Discussion ensued:

- Madame Chair Stockton commented that she expects Town Council will want to know how much this incentive program will cost the Town, especially during the first year.
- The Assistant Town Manager confirmed that he *does* expect this to have a budgetary impact.
- Planning Commission Member Greer pointed out that empty buildings don't produce anything, and the Town has spent a lot of money to revitalize downtown, and it needs to get the landlords involved in renting buildings in order to get people who can stay awhile. Too many come in and stay less than one year.
- Planning Commission Member Cundiff advised that he doesn't feel it will have a huge financial impact because new businesses will produce revenue, so it could be revenue neutral. If a business comes in and produces sales and creates a volume that will pay a portion of the taxes then it may not cost the Town anything.
- Planning Commission Member Greer agreed that there may be some cost in the first two years, but in three years it should turn the other way. He thinks that the first thing the Town needs to do is to figure out a way to fill the empty buildings

And, all the existing businesses will see an impact on their business by new people working downtown. Empty buildings hurt in many ways.

- Planning Commission Member Clements stated that the people who have the empty buildings need to know what these incentives are.
- Planning Commission Member Greer stated that the Town should expect something out of the money spent on revitalization. It should not expect to do façade design, street paving, water lines, etc. and then have the buildings sit empty for two or three years. The Town should expect that if all of this is done [landlords] should help during the first three years by reducing rents.
- Planning Commission Member Clements question the reason why the N. Morris Building has not been filled. They have spent a lot of money there and it is beautiful. Planning Commission Member Greer agreed that it is beautiful, but added that it has been empty for a year now, and maybe they need to look at cheaper rent. He stated again that empty buildings produce nothing, they only cost.
- Planning Commission Member Cundiff stated that what disturbs him more than anything about this is that the people who have been there for a length of time did not ask to be included in this. But, the Town should not offer incentives to somebody when the others have been carrying the ball for all these years, like Arrington Sports Awards, Virginia Office Supply, Angle Hardware, Haywood's Jewelers, banks, J&J Fashions, photography, Virginia Shoe and Lock.
- Planning Commission Member Greer agreed with Planning Commission Member Cundiff that this should not hurt the existing businesses. He thinks this should be another step, but not with this proposal. It is another step in that the Town needs to step up to the plate and ask what can be done to help the older main-line businesses that have been here for years.
- Planning Commission Member Cundiff stated that he thinks this needs to be decided before Planning Commission votes on this in order to be fair to the businesses that have been here for all these years. If these businesses are going to be excluded, then he is going to have a hard time with it.
- Madame Chair Stockton stated that she is afraid if Planning Commission doesn't make a start then it won't do anything, with Planning Commission Member Greer confirming that he feels like Planning Commission can work on two things at once.
- The Assistant Town Manager advised that he agrees with that perspective, and he would think that part of what is being done with the Arts & Culture District is to draw new customers in, which will help to support the existing businesses. However, he can't prove that this will happen.
- Planning Commission Member Greer stated that this will be the first part towards getting businesses where they need to be. Planning Commission Member

- Cundiff agreed that this plan has its merits.
- Madame Chair Stockton questioned where Planning Commission would like the Assistant Town Manager to go from here.
 - Planning Commission Member Cundiff pointed out that he did not want his comments to be detrimental to the will of the Planning Commission. He only wanted to make a point that this is something that needs to be considered.
 - Planning Commission Member Tiggle advised that his take on this is that the purpose of the Arts & Culture District is to bring new people in, and if the Town starts trying to cut everybody 50-percent for the first year, then it will be cutting all the people who are currently paying taxes and it may be unable to get others in the buildings. Or, if it gets new people in, then there will be increased revenues but also decreased revenues right off the top. It might be best to start this one for a year and then phase the other one in. He doesn't think it will be possible to do both at the same time.
 - There was general discussion among staff, Planning Commission, and John Schopp regarding how this ordinance would apply to Mr. Schopp's business, and how musical performances at his restaurant have been affected by his unwillingness to pay several thousand dollars in American Society of Composers, Authors and Publishers (ASCAP) fees. The Assistant Town Manager questioned if a potential music grant offered by means of this ordinance would be enough to pay the ASCAP fees, or would he even be interested in this. Mr. Schopp declined a specific response, stating that business is tough right now, and he addressed similar issues such as taxes and loopholes that seem to have an adverse affect on his business.

Another audience member indicated a willingness to speak, and Madame Chair Stockton invited him to the podium for comment.

Ed Schopp came forward, identifying himself as John Schopp's father. He commended Planning Commission for the effort in creating an environment that will stimulate businesses coming into the community. There are thousands of communities in this country that are dying. And, recognizing the businesses that have been here for a long time is a valid point. But, the Town must look at the bigger picture. What it is trying to do is revitalize and create a healthy situation to stop expansion to the suburbs and out of the small town. The benefit to the hardware stores and other businesses is going to come when there is a vital shopping center to visit. It is not immediate, but the way to go about this will be one piece at a time. He thinks the Arts & Culture District is a great idea. He commends the Town for the thought and thinks it should keep working on it.

Joan Rogers also came forward to speak, stating that she just purchased the old grainery building on Franklin Street. She stated that the incentives are important to her. When she first approached the Town she learned about the Enterprise Zone and also the art incentives. This is an important thing to her because what she is trying to do is a big thing. She is trying to renovate this building and it is running into a lot of money, and she really believes that every little bit can help. She believes that what this will do is bring in outsiders, people off of Route 220, and they will like to come to an art district. It will help to make Rocky Mount a real quality little town, and the more the Town can draw unusual stores and shops, it will be like a hub area. Start-up is hard and every little bit helps, and she appreciates all of the work that has been done, and she is sure that other people will come on board because of this work. This is gaining ground and people are noticing and saying that this is a wonderful thing. It will help the Town to expand and to draw more interesting businesses.

As there were no others from the audience to speak, Madame Chair Stockton stated that she was back to her former question. Where does Planning Commission want staff to go from this point?

The Assistant Town Manager stated that if desired he could offer Planning Commission a couple ways forward from this point: (1) he could spend the next month doing research on the financial impact to the Town and to the businesses and bring this back, and finalize the code in May, for a public hearing in June; or (2) he could go ahead and do the research over the next month, but do it in a way that will allow it to continue with a public hearing in May. As it stands, there is a potential for four public hearings in May, so it will be okay if Planning Commission wants to push this back.

Planning Commission Member Hall stated that an incentive he had been approached about was that if someone added \$50,000+ to their property, would it be possible to freeze the reassessment of that property, noting that the Town would have to work with the County on this. The Assistant Town Manager advised that this is something that Harrisonburg did, but Harrisonburg is a city, so it has the authority to freeze its own assessments. Since the Town does not have the authority to do this, as assessments are handled through the Commissioner of the Revenue, the County would have to sign off on it. Initial discussions with the County led him to believe that it would not be a worthwhile effort; however, if it is Planning Commission's direction that a formal request be made to the County, then this is something he can explore over the next month. He would first need Council's support to proceed with approaching the County. It was the consensus of Planning

Commission that he proceed with inquiring about freezing assessments and that a public hearing be held in June.

NEW BUSINESS

(1) Google Maps Streetview presentation for use in public hearings

The Assistant Town Manager gave a brief demonstration of Google Maps Streetview, a mapping tool which allows users to view properties at street level.

INFORMATIONAL BRIEFING FROM STAFF

The Assistant Town Manager informed Planning Commission of the following:

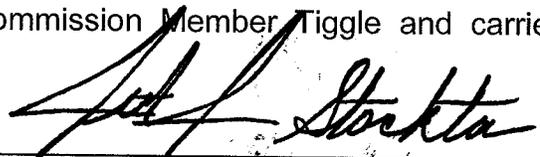
- He has finalized the site plan review and signed off on all the necessary documents to allow the Oaks at Rakes Tavern Residential Planned Unit Development (RPUD) to proceed.
- The Uptown Revitalization Project has been given the notice to proceed, and yesterday was the first day of mobilization.
- As the subdivision agent, he has approved a plat for Ralph Casey for his property located on Mary Cogger Lane, redefining the property lines for his property.

COMMISSIONER CONCERNS

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

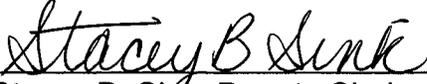
ADJOURNMENT

At 7:02 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 Tiggie and carried unanimously by those present.



Janet Stockton, Chair

ATTEST:



Stacey B. Sink, Deputy Clerk

/sbs