

**ROCKY MOUNT TOWN COUNCIL  
REGULAR COUNCIL MEETING  
AUGUST 11, 2008**

The August 11, 2008 regular Council meeting of the Rocky Mount Town Council was held in the Council Chambers of the Rocky Mount Municipal Building located at 345 Donald Avenue, Rocky Mount, Virginia at 7:00 p.m. with Mayor Steven C. Angle presiding. The following members of Council were present:

Vice Mayor Posey W. Dillon and Council Members Jerry W. Greer, Sr., John H. Lester, Roger M. Seale, Robert W. Strickler, and Gregory B. Walker

The meeting was called to order by Mayor Angle.

The Town Clerk read for the record the following being present: All members of Town Council as noted, Town Manager C. James Ervin, Assistant Town Manager/Community Development Director Matthew C. Hankins, Town Attorney John T. Boitnott, Chief of Police Erik Mollin, Finance Director Linda Woody, Planning & Zoning Administrator Paul Stockwell, Fire Chief Posey W. Dillon, and Town Clerk Patricia H. Keatts.

The Mayor led the *Pledge of Allegiance*.

### **APPROVAL OF AGENDA**

Prior to the meeting, Council had received the agenda for review and consideration of approval.

The Mayor requested that the agenda be amended to added under *Closed Meeting* an item pertaining to meeting with the Town Attorney regarding pending litigation. Council so noted.

- Motion was made by Vice Mayor Dillon to approve the agenda as amended, seconded by Council Member Lester and carried unanimously.

### **SPECIAL ITEMS**

- A. Resolution of the Rocky Mount Town Council for Appreciation and Recognition of John Speidel

The Mayor presented and read for the record a "Resolution of the Rocky Mount

Town Council for Appreciation & Recognition of John Speidel” in honor of Mr. Speidel’s retirement from the Franklin County Public Schools. Mr. Speidel was also presented a Town key and lapel pin from the Mayor. Mr. Speidel thanked Council for their recognition for his many years of service with the Franklin County School Board.

B. Introduction by Chief of Police of New Lieutenant to the Rocky Mount Police Department

The Chief of Police introduced to Council Lt. Kristen Keesee, who will be taking over the investigative part of the Police Department. The Chief of Police went over Lt. Keesee’s past credentials in the field of police work, and stated that she has already proven to be a real asset with the Rocky Mount Police Department.

**PUBLIC HEARING**

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

A. Faron and Lavon Frye requesting two waivers from the Town of Rocky Mount Subdivision for Franklin County Tax Map and Parcel Number 2070029200, located between Windsor Drive and Anderson Street

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

- The Planning & Zoning Administrator came forward and presented to Council for their review and consideration the staff report regarding the two waiver requests of Faron and Lavon Frye, being:
  1. A waiver from Article 8-3(L) requiring CG-6 curb and gutter.

The first request would waive the requirement for curb and gutter along Anderson Street. Curb and gutter will channel the runoff from Anderson Street through storm water pipes to adequate receiving channels. If the curb and gutter were waived, storm water from the road will flow into a natural drainage ditch. The curb and gutter would not connect to any existing curb and gutter along Anderson Street. If a waiver is approved, it may be worthwhile to require that a statement on the plat indicates that the property owner is responsible for a pro rata share for the costs of curb and gutter according to the property’s street frontage whenever the Town of Rocky Mount decides to extend curb and gutter along Anderson Street.

It was the unanimous recommendation of the Planning Commission to Town Council for the approval of the waiver request.

2. A wavier from Article 8-4(B) requiring sidewalks.

The second request would waive the requirement for a sidewalk along Anderson Street. The sidewalk would not connect to any existing sidewalk. If a waiver is approved, it may be worthwhile to require that a statement on the plat indicates that the property owner is responsible for a pro rata share for the costs of a sidewalk according to the property's street frontage whenever the Town of Rocky Mount decides to extend a sidewalk along Anderson Street.

It was the unanimous recommendation of the Planning Commission to Town Council for the approval of the waiver request.

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

There being no further public comments or discussion, the Mayor recessed the meeting back into regular session and entertained a motion.

- Motion was made by Council Member Greer to approve both waiver requests, with motion on the floor being seconded by Council Member Seale. Discussion ensued. It was confirmed to Vice Mayor Dillon that this property fronts on both streets and is not truly a subdivision as you would think one was. There being no further discussion, let the record show that the motion on the floor passed unanimously.

The Mayor recessed the meeting to hold the second public hearing, being:

- B. Morningstar Partners, LLC Requests Three Waivers from the Town of Rocky Mount Subdivision Ordinance for Franklin County Tax Map and Parcel Number 2010009300, Located off of Cornell Road

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

Let the record show that prior to the meeting, a signed petition in opposition of the waiver requests from the residents of Franklin Heights was turned in for the record by Mrs. And Mrs. Warren Boyd of 20 Mountain View Drive (residents of Franklin Heights Subdivision), Rocky Mount, Virginia.

- Mr. Jim Gilbert, Attorney representing Morningstar Partners, LLC, came before Council stating the following:
  - Gave a brief synopsis of where the property was located.
  - Explained to Council that the firm of Stone Engineering was being used to help rectify the storm water runoff problem down near the railroad train trestle located on School Board Road in Franklin Heights, but using the seven acres located on the proposed site owned by Morningstar Partners, LLC could be

used however the Town would like, such as using it as a catch pond to help alleviate any water runoff problems downstream.

- Informed Council that Morningstar Partners doesn't need the waivers, as they are not designing or constructing any streets in the subdivision and, therefore, they are not required to put in curb and gutter.
  - With this all said, they still would certainly like Council to logically consider the Town's Planning & Zoning Administrator's staff report regarding curb and gutter in that it could increase the rate of runoff and increase the time of concentration for storm water from the road and subdivision.
  - Referenced the Town's Subdivision Ordinance in that it states that since they are not designing or constructing any streets, they are not required to put in curb and gutter.
  - Mentioned that there is no curb and gutter in Franklin Heights now.
  - Pointed out that there is no burden for curb and gutter being imposed on any development in Rocky Mount and it has been waived in the past for those requests; therefore, they are requesting the same consideration.
- Mr. Warren Boyd of 20 Mountain View Drive came before Council stating the following:
    - Thanked Council for listening to the residents of Franklin Heights regarding this issue.
    - Stated he could only speak for himself and Franklin Heights, but they were opposed to any of the waivers.
    - Thanked Planning & Zoning Administrator for putting up the signs regarding the public hearing, and showed Council a "caution – high water" sign that has been posted for some time at the property that is already near the site.
    - Doesn't think the Town should take the seven acres to use as a park as they are considered wetlands.
    - The developer should be responsible for the wetlands with the Town not having to be the responsible party to take care of it.
    - If sidewalks and curb and gutter are put in Franklin Heights, the residents of Franklin Heights will have to pay for the developer's share if the developer is not required to do so now.
    - Hopefully, the developer doesn't come back within a year again, as the residents of Franklin Heights didn't know he could come back this time.
    - Speaking on behalf of the residents of Franklin Heights, they want sidewalks and curb and gutter put in the proposed subdivision by Morningstar Partners, LLC before the sell the lots, if the developer does decide to sell parcels before homes are built on them.
    - Thinks the Town should stick to the rules, as the people in Franklin Heights stand side-by-side and always will.
    - Developer should pay for the sewer and water hookups also, the same as the residents in Franklin Heights have to pay. The developer should figure into his expenses those costs before he bids the work out.
  - Frances Parker of 650 Bernard Road came before Council stating the following:

- This proposed subdivision is in Franklin Heights regardless of what the developer wants to call it.
  - The developer was before Council last year, and the residents of Franklin Heights did not know they could come back after a year with the same requests, with the residents of Franklin Heights not thinking this is fair that the developer can present this request again.
  - The patio homes down the street have curb and gutter, with them doing what was right.
  - Water rushes like a river down by her house, flooding the road.
  - There is only one way out of the subdivision when it floods.
  - Doesn't think the Town should take the seven acres for a park as a gift because the taxpayers end up having to pay for it and the Town doesn't need another community park.
  - Traffic is not the developer's problem, but he will be adding to the traffic with this development.
  - Will continue to ask the Town for sidewalks in Franklin Heights.
  - When the developer goes to cut trees, they will have high water runoff.
  - It was the decision of Council last year that the developer had to do these things, and cannot understand why he can come back again with the same request.
  - If nothing is done with the wetlands, how is the Town going to control mosquitoes.
- Royal Lilly of 620 Bernard Road came before Council stating the following:
    - Lives two doors down from Frances Parker.
    - Concurs with what each person before him has stated regarding their concerns about sidewalks and curb and gutter.
    - Constant problem on Bernard Road and it is not going to change, with him understanding this.
    - The Town needs to stay with what was originally stated last year.
    - Is the developer going to develop land or is he going to sell lots?
    - Who is going to worry about the wetlands?
    - What are the homes going to look like? Will they be uniform with the rest of the homes in Franklin Heights?
    - Is the park going to help Franklin Heights or will other people be allowed to come in and use it, and is this something really needed?
    - Mentioned police can't do anything about the vehicles speeding on Bernard Road.
    - Mentioned safety issue for children with so many buses traveling on Bernard Road.
- Raymond Williams of 585 Bernard Road came before Council stating the following:
    - Certainly will not argue with Mr. Gilbert regarding the waivers, and although he did sign the petition, he really doesn't care if sidewalks and curb and gutter are not put in.

- Does think the developer should pay a proportionate share of the water and sewer hookup.
  - Concerned more about the wetlands. Has watched the creek for 40 years and the development upstream regarding the flow of the creek. Any development will make it more prone for mosquitoes. Also has a personal interest in this due to his shallow well, and if the wetlands are disturbed, will hinder the growth of his vegetables.
  - Feels that taking care of the wetlands is more important than the sidewalk and curb and gutter issue is.
- Quint Overton of 270 Cornell Road came before Council stating the following:
    - Lives behind proposed project.
    - Referenced comments from Mr. Gilbert that was reported in *The Franklin News-Post* that the situation would be a win-win situation for everyone, but at this meeting, Mr. Gilbert had commented that the developer really did not need to ask for the waivers.
    - There are problems in Franklin Heights.
    - Do need sidewalks on Bernard Road.
    - Going to need a traffic light down on the ramp coming down Bernard Road soon.
    - Regarding the park, Town does not need any more parks.
    - Asking Council to deny the waivers, as this would please a lot of people in Franklin Heights in being able to get in and out of their driveways.
- Mr. Jim Gilbert, Attorney representing Morningstar Partners, LLC, asked to come before Council again, stating the following:
    - Gave reason why the developer was going through the motions again in presenting their request again.
    - The developer cannot address the issue of speeding traffic.
    - Curb and gutter are designed to take surface water runoff and put it somewhere else, and if you put it on these streets, it will directly impact two points instead of running off naturally as outlined even in the Planning & Zoning Administrator's staff notes.
    - The wetlands are an important issue with and curb and gutter not helping the wetlands. Curb and gutter will only hurt this situation.
    - Asking for Council to grant the waivers. Don't want to go through a lawsuit if not necessary.
- Mr. Warren Boyd of 20 Mountain View Drive asked to come before Council again, stating the following:
    - Understands Mr. Raymond Williams' comments, but believes the curb and gutter will help.
    - When a man stands up and threatens his country and his community, he doesn't like that and takes offense to that.

At this point, the Mayor asked that Mr. Boyd to focus on the issue. Mr. Boyd

continued by stating the following:

- Wants curb and gutter
  - Does not want the wetlands.
  - As an American, and as a part of the Franklin Heights community, he wants what is right.
- 
- Mr. Conrad Lavinder of 160 Hilltop Drive came before Council stating the following:
    - Franklin Heights needs to be addressed regarding water flooding for all of Franklin Heights, and not just Bernard Road.
    - Before anymore is said about building anymore houses, need to take a comprehensive look at what makes Franklin Heights a subdivision, then move ahead.
  - The Planning & Zoning Administrator came before Council, presenting to them the staff report for the three waiver requests of Morningstar Partners, LLC:
    1. A waiver from Article 8-3(L) requiring CG-6 curb and gutter.

Curb and gutter catches and directs storm water into flows that are subsequently directed into adequate natural or man-made channels. The waiver of curb and gutter would reduce the infrastructure costs to the developer by approximately \$55,000 (including two drop inlets). The developer is proposing to dedicate to the Town the residual parcel containing approximately 7.17 acres of land for use as a neighborhood park and/or a storm water retention area for not just the proposed Franklin Woods Subdivision, but to help the storm water situation in the rest of Franklin Heights as well. A significant portion of this parcel contains an environmentally sensitive wetland. Curb and gutter could increase the rate of runoff and increase the time of concentration, or decrease the infiltration rate, for storm water from the road and subdivision. A natural attenuation of storm water would decrease the time of concentration and allow storm flows to naturally absorb over a larger area. The residual parcel could aid in capturing and absorbing the natural runoff of the development, therefore, increasing the infiltration rate of storm flows. Development of this parcel would disrupt this environmentally sensitive area and defeat its purpose for having it as an area to naturally absorb storm flows. Development of the parcel would also increase impervious surface area, thus increasing runoff and increasing storm flows time of concentration, or decreasing its infiltration rate, into the wetland area. Making approval of the waiver of curb and gutter conditional upon the developer permanently leaving 7.17 parcel undeveloped as open space, a neighborhood park, or a storm water management area, would allow storm flows to absorb at a slower rate over a larger area.

The Planning Commission recommended to Town Council for the denial of the waiver request by a vote of four to two.

2. A waiver from Article 8-4(B) requiring sidewalks.

Sidewalks provide for additional pedestrian mobility, especially along roads that may contain a significant amount of traffic. Pedestrian mobility, walking, and exercise are important to all populations. Franklin Heights currently does not have sidewalks, therefore, the provision of sidewalks in this development would serve as the "beginning" of a potential sidewalk system in the Franklin Heights neighborhood. The provision of sidewalks for the Franklin Woods development would make sense if the Town sees the potential for furthering the provision of sidewalks in the Franklin Heights neighborhood in the future. However, if the furtherance of a sidewalk system in Franklin Heights in the future may not seem feasible and a permanent trail system on the residual parcel was developed, sidewalks may not be necessary for this development to increase the mobility and recreation of Franklin Heights' residents. A waiver of sidewalks would reduce the infrastructure costs to the developer by approximately \$65,000. If the developer physically establishes a trail at least five feet in width with material such as gravel or limestone dust on the residual parcel approximately the length of what the required sidewalk would be (2,000 feet), and dedicate the trail along with a minimum 20 foot public trail easement to the Town, the development cost would be significantly less for the developer, while also providing for additional pedestrian mobility and recreation for residents of the Franklin Heights neighborhood. The trail would be accessible to the public from three locations: Cornell Road between lots 1 and 2; Bernard Road and Mountain View Drive between lots 12 and 13; and the Town's parcel located on Bernard Road. The developer has proposed to construct such a trail system with the development.

The Planning Commission had no recommendation to Town Council as they had a tie vote (three to three) for denial of the request.

3. A waiver from Article 8-1(C) requiring subdivider to pay a proportionate share of the cost of the extension of water and sewer service to the property being developed.

The applicant is requesting that the Town waive the developer's proportionate share of the off-site sewer extension costs according to the Subdivision Ordinance. The Town has traditionally extended utilities to the property lines of a development based upon a potential ten-year return on the cost of the extension. The Town has historically used a ten-year return on investment to determine whether extending utilities to a development's property line would be a fiscally responsible use of taxpayers' dollars. A ten-year return on the development to the Town, based on water and sewer connection fees and use fees, would be approximately \$89,024. If property taxes are included,

taxes are included, this figure increases to \$124,867 for ten years. There would be two extensions to the property line. The first extension would be approximately 200 feet to the southeast property line. A second extension would be approximately 270 feet to the property line. These extensions would involve the installation of two manholes located on the property line of the development. The cost of the sewer extension would be approximately \$45 per linear foot. Therefore, the 200 foot extension would cost approximately \$9,000, the 270 foot extension would cost approximately \$12,150, with both totaling \$21,150.

It was the unanimous recommendation of the Planning Commission to Town Council for the approval of the waiver request.

- Council Member Lester questioned if the Planning Department considered getting from the applicant a Letter of Credit to cover the cost of sidewalks and curb and gutter in lieu of the study the Town is trying to get for Franklin Heights Subdivision storm water management and runoff. The Planning & Zoning Administrator explained that the Town does have a plan for storm water for the entire Franklin Heights in the process now. The Town Manager stated that what was being brought up by the Planning & Zoning Administrator had not yet been discussed with Council.

There being no further public comments or discussion, the Mayor recessed the meeting back into regular session and entertained a motion on the following:

1. Waiver request by Morningstar Partners, LLC for the waiver from Article 8-3(L) requiring CG-6 curb and gutter.
  - Motion was made by Vice Mayor Dillon to deny the first request, which was a waiver from Article 8-3(L) requiring CG-6 curb and gutter, with motion on the floor being seconded by Council Member Strickler. There being no discussion, let the record show that the motion on the floor passed unanimously.
2. Waiver request by Morningstar Partners, LLC for the waiver from Article 8-4(B) requiring sidewalks.
  - Motion was made by Vice Mayor Dillon to deny the second request, which was a waiver from Article 8-4(B) requiring sidewalks, with motion on the floor being seconded by Council Member Walker. There being no discussion, let the record show that the motion on the floor passed unanimously.
3. Waiver request of Morningstar Partners, LLC from Article 8-1(C) requiring subdivider to pay a proportionate share of the cost of the extension of water and sewer service to the property being developed.

- Motion was made by Vice Mayor Dillon to deny the third request, which was a waiver from Article 8-1(C) requiring subdivider to pay a proportionate share of the cost of the extension of water and sewer service to the property being developed, with motion on the floor being seconded by Council Member Strickler. Discussion ensued. The Mayor went over the history of how the Town has handled these types of requests in the past, as outlined in the Planning & Zoning Administrator's staff report. Vice Mayor Dillon questioned why the developer would ask for such a waiver. The Mayor explained that under the motion on the floor, the developer would have to pay a proportionate share. Council Member Greer questioned why the lines would not be run to the property line. Vice Mayor Dillon stated that in this case, two lines would be required to be run to the property line. The proportionate share was discussed with the Town Attorney. The Mayor confirmed to Council Member Lester that the developer was also asking for not only the water line, but also the sewer line. There being no further discussion, let the record show that the motion on the floor passed unanimously.

### **APPROVAL OF MINUTES**

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

- July 14, 2008 Regular Council Meeting
- Motion was made by Council Member Lester to approve the draft Council meeting minutes as presented with motion on the floor being seconded by Council Member Walker. There being no discussion, let the record show that the motion on the floor passed unanimously.

### **APPROVAL OF CONSENT AGENDA**

The approval of the *Consent Agenda* consists of approving any miscellaneous resolutions/proclamations, miscellaneous action, departmental monthly reports, and bill list that were submitted prior to the meeting for Council's review and consideration.

- Miscellaneous Resolutions/Proclamations
  - Review and consideration of adoption of draft "Resolution – Affirmation of Authorization to Pick up the Employees' Contribution to VRS for Town of Rocky Mount, 55353, Under §414(h) of the Internal Revenue Code"
  - Review and consideration of adoption of draft "Resolution by Rocky Mount Town Council Pertaining to a Virginia Department of Health Office Drinking Water"

- Review and consideration of adoption of draft “Resolution by the Rocky Mount Town Council – Acceptance of Tyree Street”
  - Review and consideration of adoption of draft “Town of Rocky Mount Supplemental Appropriation Resolution for the Fiscal Year Ending June 30, 2009” (Rocky Mount Police Department)
  - Miscellaneous Action
  - Departmental Monthly Report
  - Bill List
- Motion was made by Vice Mayor Dillon to approve the draft *Consent Agenda*, with motion on the floor being seconded by Council Member Lester. There being no discussion, let the record show that the motion on the floor passed unanimously.

### **HEARING OF CITIZENS**

Let the record show that no citizens came forward to speak before Council.

### **OLD BUSINESS**

#### **A. Request of Arlene Jones**

At the July 14, 2008 Council meeting, Mrs. Arlene Jones came before Council requesting funding for an upcoming “Festival on The Crooked Road”. At that time, Council did not give Mrs. Jones any funding due to budget cuts having to be made prior to the new fiscal year that started July 1. They did advise her that once she is able to come before Council with more information on where her funding was coming from, she could come again before Council with an update on the festival fund raising efforts. Mrs. Jones came before Council this time, asking them to consider the following:

1. Permission to use the Community & Hospitality Center (Depot) and surrounding area for vendors and bands.

The Mayor advised Mrs. Jones that this should not be a problem, but she would have to work this out with the Town Manager and the Chief of Police.

2. Would like to close Franklin Street in front of Franklin Glass in order to hold a street dance.

Mayor advised Mrs. Jones she would have to come back before Council regarding this request with specific time and area of the street they wanted to be closed.

3. Currently have 18 vendors (widely ranging in what they will be selling) committed

to the festival, and about 14 area businesses supporting in one way or the other. The vendor money is coming in, but they will still be short for funds for advertising. Due to this, asking that the Town help support the advertising portion of the festival by donating whatever they could, stating that \$1,500 would go a long ways towards them being able to do more advertising. Confirmed to Council Member Greer that they are charging the vendors \$35 each. The Mayor stated that he did not think things had changed that much with Council being able to help her with her request since the last time she came before Council. Council Member Lester also voiced the same sentiments as the Mayor in that unfortunately, the Town's budget had not changed. Mrs. Jones pressed upon Council that any amount of funding would be appreciated.

- Motion was made by Council Member Lester that the Town donate \$500 towards the advertising for the festival, and if there were any access money left over from their event, the \$500 would be paid back to the Town, with motion on the floor being seconded by Council Member Seale. Discussion ensued. Mrs. Jones confirmed to Vice Mayor Dillon that the committee planned on doing this event every year. Council Member Seale stated that if this event is successful, this could very well be a signature event for the Town. A roll call vote was taken. Voting in favor of the motion on the floor were Council Members Lester, Seale and Walker. Voting in opposition of the motion on the floor were Vice Mayor Dillon and Council Members Greer and Strickler, with Mayor Angle voting in favor of the motion on the floor. Let the record show that the motion on the floor passed four to three.

B. Review and Consideration of Adoption of Draft Ordinance Providing Regulation of Campaign Finance and Political Advertisements for Candidates in Town Elections

Prior to the meeting, Council had received a draft ordinance that provided regulation of campaign finance and political advertisements for candidates in Town elections as requested by Council Member Lester, with Council Member Lester proposing that the Town investigate the ruling of the 2008 General Assembly that allowed towns with populations under 25,000 to voluntarily subject (by ordinance) local elections to the Campaign Finance Disclosure Act of 2006. Staff had indicated during a previous Council meeting that the State Board of Elections was preparing such draft ordinance for towns under the 25,000 population. Based upon review by staff, the principal impact of adopting the Campaign Finance Disclosure Act would be:

1. Financial Reporting: Candidates who spend \$500 or more in an election would be required to complete a Campaign Finance Report.
2. Advertisements in all media would need to reveal the name of the person or entity that paid for the advertisement, and a statement pertaining to a candidate's endorsement of the advertisement.
3. Independent Expenditures: Individuals and other legal entities would also have to complete a financial disclosure form for funds expended to support the election or defeat of any individual.

The Mayor questioned what was wrong with the way candidates for the Town are doing it now, with Council Member Lester commenting that they were not doing anything at all now. The Mayor then questioned if this is something that was really needed. Council Member Lester questioned if a shorter version from the State Board of Elections could be found, since the Town is small, having the State Board of Elections providing something more conclusive to the Town's size.

The Mayor requested that the Town staff research this some more, with the Town Manager so confirming.

- Motion was made by Council Member Lester that this matter be deferred until such time additional information is received from the State Board of Elections for towns under the population of 10,000 to a reasonable level of paper work that should be involved in a legal documental process, with motion on the floor being

seconded by Council Member Seale. There being no discussion, let the record show that the motion on the floor passed unanimously.

C. Open Discussion Regarding Egress/Ingress on Wray Property Located on Franklin Street

Vice Mayor Dillon requested that this item be added to the agenda for open discussion by Council regarding the egress/ingress on the Wray property located on Franklin Street next to Arrington Flowers & Gifts. Vice Mayor Dillon stated that he believes everyone is aware of what is going on with the Wrays and Arringtons, and he is not sure what initiated installing the bollards, but he believes in order for the Town Manager and Council to address this issue, the matter needs to be discussed and handled in open session. He further stated that he believes this area should be a public easement and the Public Works Director should be authorized to remove the bollards, and with this being said, Vice Mayor Dillon put this in a form of a motion.

- Motion was made by Vice Mayor Dillon to remove the bollards that are located between the Arrington and Wray properties, with motion on the floor being seconded by Council Member Walker. Discussion ensued. Council Member Greer questioned why the Town received an invoice from the Town for approximately \$1,700 from Cornerstone Engineering, with the Mayor explaining that this was for a survey the Town had to have done for developing various draft plats recently this year in order to mark proposed sites for the property. Council Member Lester voiced a concern that if Council removes the bollards, it leaves the area open for public access, with this area not being a public access as it was suppose to be an exclusive right-of-way for the Arringtons, and by removing the bollards, this may leave the Town liable. The Mayor explained that that Council had asked the Arringtons and Wrays to try to work out an agreement between themselves, and an agreement could not be reached. He further stated that if the bollards are removed, it will create hard feelings and another situation. The Mayor confirmed to Council Member Walker that the bollards were installed at the request of the former Town Manager. Council Member Seale explained that when the Town did the downtown revitalization project, the Arringtons gave up the front entrance parking area of their business in exchange for an easement to use part of the Town property that was located in the back of their building for loading/unloading their delivery trucks and for parking for their place of business. He also stated he did not know who made the decision to install the bollards. Vice Mayor Dillon stated that at the time of the agreement when it was closed off, the Town and Arrington owners all signed that they were satisfied with the agreement of exchange of property at that time before this other matter came up. The Town Attorney went over the Arringtons' access easement agreement, stating that it was to be clear of obstruction, and it was to allow the Arringtons to have a way to get back and forth to their back parking lot. He further explained that the easement document was approved by the representatives of Mr. Arrington as part of the agreement. The date of the document was August 17,

2001 and was acknowledged by the Town Mayor at that time, Mark Newbill, and the current Town Clerk, Patricia H. (Hooke) Keatts on August 29, 2001 and recorded September 17, 2001. Council Member Walker stated that what Council Member Lester had said is not in the motion. He further stated that he does not think the Town should be liable for anything that happens back of the property. Council Member Lester commented that part of that easement is public property that is owned by the Town, and the other part is private property. Mr. James Wray asked if he could come before Council to comment, with the Mayor stating that this discussion was between Council and not open to public comment. Council Member Lester went over the history of what had transpired in giving the easement to the Arringtons. Council Member Strickler questioned as to what problems there would be in removing the bollards. Council Member Lester explained that this was the only ingress/egress from the Arrington's property, and that the Arringtons had given up the front of their property and never were compensated for that other than the Town giving them an easement in the back of their property for parking and ingress/egress. He further mentioned that at that time, the Council had motioned, with motion passing, that the property be conveyed to the Arringtons, and several years later, requested that the two parties work out an agreement after the Wrays purchased the property next door to the Arringtons. After that motion passed for them to work out an agreement, Council was informed by the Town Attorney that a super majority vote was needed, and since then, the matter has been in limbo. He further commented that if the bollards are removed, you open up the easement that was given to the Arringtons. The Mayor commented that it would be a matter of interpretation on what the problem would be. Vice Mayor Dillon stated that the property located behind the Arringtons is like any other alley in the Town in that you would have to wait for one car to move in order to drive through. He further stated that there has been quite a bit amount of money spent to try to figure out a workable situation. He also commented that the bollards were originally put in before coming before this body of Council and he is trying to rectify the problem. Vice Mayor Dillon stated also that he does not think this will be a major thoroughfare. Council Member Lester stated this is a different situation as being an alleyway, as it serves a private business of the Arringtons. He further commented that at this time, the Wrays already have three entrances to their business. Council Member Seale commented that this area behind the Arringtons is not an alleyway and asked the Town Attorney for his opinion regarding if it was an alleyway, with the Town Attorney stating that at this time, he is not sure at this point what it is. Council Member Seale stated also that he thinks the Town would have to put up signage if this is done. Council Member Lester commented that there has been thousand of dollars spent on this and that the Town should not have to go through this process. The Mayor stated that Council has heard the motion on the floor to remove the bollards and what was the pleasure of Council. Let the record show that a roll call vote was taken. Voting in favor of the motion of the floor to remove the bollards were Vice Mayor Dillon and Council Members Greer, Strickler, and Walker. Voting in opposition to the motion on the floor to remove the bollards were Council Members Lester and Seale. Let the record show that

Seale. Let the record show that the motion on the floor to remove the bollards passed with four to two vote.

## **NEW BUSINESS**

### A. Appointment of Rocky Mount Town Council Member to the Roanoke Valley Alleghany Regional Commission

Effective immediately, Council Member Lester has requested that he be removed from serving on the Roanoke Valley Alleghany Regional Commission (RVARC) and that another Council member be appointed to replace him. Council Member Lester was appointed to this position June 11, 2007 by the Mayor, and no motion is necessary for the appointment. Council Member Lester encouraged the Mayor to appoint one of the new Council members as this would be a good area to receive training. As no one from Council came forward to submit their names for appointment at this time, the Mayor asked that anyone interested in serving on the RVARC to contact the Town Manager.

### B. Storm Water Management Plan for Franklin Heights Area

The Town Manager presented to Council a storm water management plan for the Franklin Heights area as follows:

- Franklin Heights neighborhood and the area at the railroad overpass suffers from chronic flooding during periods of heavy rain, which harms the community in many ways.
- Certain streets are impassable at times, with residents living in fear of water damage, and have recently looked to the Town for a solution.
- This neighborhood was nearly completely built out when annexed in 2000 and the storm water management system was put in place by the original developer.
- In order to improve the storm water handling of the neighborhood and the downgrade areas (such as the railroad overpass), a series (two or more) of retention/detention will need to be created.
- Identifying the location for such facilities and then designing and constructing them could be a multi-year project.
- The first step in the process will be to conduct a preliminary engineering report on the sources of the flooding and potential options to retain and detain the water during heavy rain events, and from there, a suitable technical solution could be designed and the ultimate solution can be placed in the Town's capital cycle.

The Town Manager informed Council that he has solicited a quote from an engineering firm to initiate this process and to prepare preliminary engineering report outlining various options and costs to address some of the storm water issues in the Franklin Heights neighborhood. He further stated that he expects the initial engineering to cost \$10,000 and he would be using funds already budgeted for such

a purpose, and he requests Council's approval to continue this process. The Town Manager confirmed to Council Member Lester that this project entails all the streets in Franklin Heights, but that this may be a multi-year project. The Town Manager also confirmed to Council Member Lester that the Town may be able to seek grant funding to do the project after the Town gets the preliminary engineering report, with the grant funding being used for the bigger portions of the project. Council Member Lester commented that the Town can't plan anything without getting accurate planning information, and that the Town also has a GIS system and software available to assist if needed. He also stated that this project is desperately needed.

- Motion was made by Council Member Lester to approve the request of the Town Manager, with motion on the floor being seconded by Council Member Greer. Discussion ensued. Vice Mayor Dillon asked if the preliminary engineering report would also include looking at sidewalks and curb and gutter in this area, with the Town Manager stating that this preliminary engineering report will pretty much be open ended and that most of the area is built out already, and that he wants to leave this wide open to see how this can be solved but that it most definitely should include curb and gutter in some of the sections. The Mayor commented that the study should help identify the needs in the area. Vice Mayor Dillon also stated that he wants to make sure the study includes the concerns that were voiced at the public hearing portion of the meeting held tonight. There being no further discussion, let the record show that the motion on the floor passed unanimously.

C. Water Loss Report for Fiscal Year 2008

The Town Manager informed Council that for the past 12 months, the Town of Rocky Mount staff has endeavored to address the Town's persistent water loss issue, which occurs when the Water Treatment Plant produces more water than is accounted for in billings and documented usage. He stated that the Finance Department, Public Works Department, along with the Water Treatment Department, have all worked hard to identify sources of water loss and have made great progress.

The Town Manager gave examples of actions taken in the past year that included:

- Identifying and addressing leaks
- Identifying unread meters
- Identifying incorrectly configured compound meters
- Calibrating production equipment
- The systematic replacement of water meters to touch read meters, with Council budgeting \$20,000 per year for this

Also pointed out by the Town Manager was that in the past 12 months, the 6% reduction in loss accounted for 22,385,400 gallons of water, with this equating a net recovered value, including sewage treatment charges, of \$138,000. He further pointed out that staff will continue to make progress on this issue in the coming year.

## **COMMITTEE REPORTS**

### A) Streets, Sidewalks & Sanitation Committee

The Streets, Sidewalks & Sanitation Committee met on July 15, 2008 to review and consider several items.

The Town Manager brought to Council's attention that the only item needing action from Council was the one dealing with speed limits for Pell Avenue, North Main Street corridor, and South Main Street corridor. He stated that the committee's recommendation was as follows:

- Recommended increasing the speed limit on Pell Avenue from 25 mph to 35 mph from the intersection of Main Street past the industrial area to a point between Donald Avenue and Center Street.
  - Recommended that the 35 mph speed limit be extended south along North Main Street, around the curve to Byrd Lane. Also recommended changing the large 35 mph sign on the exit ramp onto North Main Street to a large "Reduce Speed Limit" sign, and starting the 35 mph speed limit near the intersection of Frontage Road. Signs marking the curve and a suggested 25 mph safe speed will need to be installed.
  - No change was recommended for South Main Street.
- Motion was made by Vice Mayor Dillon to accept the recommendation of the Planning Commission, with motion on the floor being seconded by Council Member Lester. Discussion ensued. Council Member Walker voiced concern regarding Pell Avenue and the need that it needs to be properly marked so people could see it. Vice Mayor Dillon mentioned that a sign warning that the speed is reduced ahead may need to be installed. Council Member Lester commented that a flashing light may need to be installed. Vice Mayor Dillon further mentioned that the Town may need to monitor the influx of traffic coming in/out from the Health Department and Dollar Store. Council Member Seale commented that he sees Council Member Walker's point in properly marking Pell Avenue so people could see the speed limit change. There being no further discussion, let the record show that the motion on the floor passed unanimously.

The Town Manager also informed Council that the other items the committee had reviewed but no action was needed from Council were:

1. Review request of citizens for the removal of vehicle parking along one side only on East Court Street.
2. Review request of Mr. Drew Davis for permission to place a wrought iron railing on Town's retaining wall on East Court Street.
3. Review request of Mr. Donnie Davis to replace retaining wall on Harvey Street.

B. Public Safety Committee

The Town Manager informed Council that the Public Safety Committee met on July 31, 2008 to discuss crime issues on Hatcher Street, Tank Hill, and Windy Lane, but at this time, no action was needed by Council. The committee did recommend that the Rocky Mount Police Department do the following:

1. Continue to work with management of the apartment complexes to make sure to control crime issues at the apartment complexes.
2. Continue foot and vehicle patrols to make sure visible in the neighborhoods.
3. Council can contact the Chief of Police directly with concerns, particularly the immediate concerns passed on by citizens.
4. Continue efforts to establish more neighborhood watches, and communicate more effectively with people in the neighborhood about crime prevention.

C. Public Utilities Committee

The Town Manager informed Council that the Public Utilities Committee met on August 6, 2008 to discuss several items but at this time, no action was needed by Council.

1. The committee considered an offer from Morningstar Partners, LLC to deed to the Town a parcel of land in exchange for the extension of sewer service beyond their property line. The extension of sewer services would enable to reach an area that needs sewer service, which is a large developable area across State Route 220 from the proposed development. The committee agreed to investigate the offer in more detail and will meet again at a later date at the site.
2. The committee reviewed for the second time a request of Mr. Wallace Campbell for the extension of utilities to a proposed subdivision off of Diamond Avenue Extension. Franklin County has consented to the extension of utilities to the development and the committee had previously indicated support for the connection, provided that there is a 100% hookup agreement. The committee directed Town staff to continue discussions with Mr. Campbell and to bring the issue back to the committee when more exact plans are know.

**RISE 'N SHINE APPEARANCES**

The Mayor mentioned that the Assistant Town Manager/Community Development Director appeared on the Rise 'N Shine morning show on Cable 12 today and did a fine job. He further mentioned that the next appearance by the Town is scheduled for Monday, September 8, and any Council member wishing to attend needs to let the Town Manager know.

## **COUNCIL CONCERNS**

### **Council Member Lester**

- Would like to get the Town Manager and the Planning Department to look into the possibility of utilizing Letters of Credit to make sure those items needing to be waived are taken care of so the amount of the cost that needs to be incurred by the developer can be done so at a later time.
- Questioned the status of the economic development for towns under the population of 10,000. The Town Manager responded by stating that staff is pushing to get the

Governor funding for this, and progress on this request is moving forward, but will need to identify broader space of sponsors.

Mayor Angle

- Reminded everyone of the Salem Avalanche baseball game tomorrow evening, and mentioned that the Town Clerk would be singing the National Anthem.

**CLOSED MEETING**

At 8:50 p.m., motion was made by Council Member Greer to go into *Closed Meeting*, and seconded by Council Member Seale and carried unanimously to discuss the following:

- Section 2.2-3711(A).3 – Discussion or consideration of 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 (North Main Street and Bernard Road; and South Main Street).
- 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.

At 9:12 p.m., motion was made by Council Member Lester 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 Greer and carried unanimously.

**CERTIFICATE OF CLOSED MEETING**

Whereas, the Town of Rocky Mount Council has convened a *Closed Meeting* on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, Section 2.2-3712 of the Code of Virginia requires certification by this council that such *Closed Meeting* was conducted in conformity with Virginia Law;

Now, Therefore, Be It Resolved that the Rocky Mount Town Council hereby certifies that, to the best of each members' knowledge: (1) only public business matters lawfully exempted from open meeting requirements under this chapter and (2) only such public

business matters as were identified in the motion by which the *Closed Meeting* was convened were heard, discussed, or considered in the meeting by the public body.

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Steven C. Angle, Mayor

- Motion was made by Council Member Greer certifying that: (1) only public business matters lawfully exempted from open meeting requirements under this chapter was discussed; and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or consider in the meeting by the public body was discussed. Motion was seconded by Council Member Lester. The Mayor swore to adopt the motion on the floor by Council Member Greer that this was all that was discussed as defined in Section 2.2-3412 Code of Virginia. Voting yes were Vice Mayor Posey W. Dillon and Council Members Jerry W. Greer, Sr., John H. Lester, Roger M. Seale, Robert W. Strickler, and Gregory B. Walker.

The Mayor reported that no action was taken.

### **ADJOURNMENT**

At 9:15 p.m., motion was made by Council Member Strickler to adjourn, seconded by Council Member Walker and carried unanimously.

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Steven C. Angle, Mayor

ATTEST:

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Patricia H. Keatts/Town Clerk

/phk