

**ROCKY MOUNT TOWN COUNCIL  
REGULAR COUNCIL MEETING  
AUGUST 10, 2009**

The August 10, 2009 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 (and Planning & Zoning Administrator), Town Attorney John T. Boitnott, Chief of Police Erik Mollin, Finance Director Linda Woody, Fire Chief Posey W. Dillon, Public Works Director Cecil R. Mason, Community Partnership for Revitalization Director Katie McElroy, 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.

There being no comments, the Mayor entertained a motion.

- Motion was made by Council Member Lester to approve the agenda as presented, seconded by Council Member Seale and carried unanimously.

### **SPECIAL ITEMS**

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

### **PUBLIC HEARING**

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

A) Review and Consideration of Approval to Amend Article 26-5 of the Town of Rocky Mount Zoning & Development Ordinance

Prior to the public hearing, notice was given for Council's review and consideration to amend Article 26-5 of the Town of Rocky Mount's Zoning & Development Ordinance regarding area regulations in the Central Business District to either eliminate or reduce the area requirement. Currently, 26-5-1 requires that lots containing or intending to contain a single permitted use have a minimum lot area of 10,000 square feet.

A staff summary of the request was presented by the Assistant Town Manager:

- This request originates for a specific request, but staff believes a larger policy issue is at play. The Central Business District lots in Rocky Mount, and in general, historically have smaller lot requirements because businesses share street parking, and because this allows more businesses to locate on a street, creating sustainable development.
- The specific request was to subdivide a property that contains multiple buildings. The owner wishes to sell one of the buildings, which does not have adequate square footage to legally subdivide, and which at the Town Attorney's opinion, does not meet the required Town's Board of Zoning Appeals standard of hardship. If Council does pass this ordinance, it is quite likely that the Assistant Town Manager will have a request to subdivide this property within the next week.
- In surveying other Virginia localities of similar size or proximity, the Assistant Town Manager determined that only one locality, which was Roanoke, Virginia, has any area requirements within central business districts. All other localities that have area requirements within central business districts regulate requirements for residential lots, lots not served by public water or sewer, or auto sales. Except for Roanoke, none of the other 18 localities surveyed have requirements for general commercial properties in central business districts.
- Of the 228 lots in the Town's Central Business District, roughly half do not have the required 10,000 square feet.

The Mayor opened the floor for public comments from anyone wishing to come forward to speak regarding this request. Let the record show that no one came forward.

There being no further discussion, the Mayor reconvened the meeting back into regular session.

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

- Motion was made by Council Member Strickler to eliminate Section 26-5-1 of the

Town of Rocky Mount Zoning & Development Ordinance to remove the lot area requirements in the Central Business District, with motion on the floor being seconded by Council Member Greer. There being no discussion, let the record show that the motion on the floor passed unanimously.

### **APPROVAL OF MINUTES**

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

- July 13, 2009 Regular Council Meeting

There being no comments, the Mayor entertained a motion.

- 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 Greer. 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 approval of draft "Resolution of Support of the Revised Franklin County Solid Waste Management Plan, 2009 by the Town of Rocky Mount Town Council"
- Miscellaneous Action
- Departmental Monthly Report
- Bill List

There being no discussion, the Mayor entertained a motion.

- Motion was made by Vice Mayor Dillon to approve the draft *Consent Agenda*, 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.

### **HEARING OF CITIZENS**

Let the record show that no one came forward to speak at this time.

## **OLD BUSINESS**

A) Review and Consideration of Approval of Virginia Department of Transportation Weaver Street Deed

The Town Manager reported that the Town had received a letter from the Virginia Department of Transportation requesting that the Town execute the presented deed that will convey the operating right-of-way for Weaver Street to the Town of Rocky Mount. The Town Attorney stated that everything was in order regarding the submitted deed, and during his research regarding this matter, he found out that the old deed was still in Virginia Department of Transportation's name, with it now needing to be in the Town's name, which the presented deed taking care of this.

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

- Motion was made by Council Member Seale for the Town to execute the deed as requested by the Virginia Department of Transportation, 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.

B) Review and Consideration of Holding a Joint Work Session for Town Council and Planning Commission

The Assistant Town Manager informed Council that as a result of the Town and Planning Commission's last joint meeting, Council had agreed to hold periodic meetings with the Planning Commission to openly discuss issues of concern to both bodies for advancement and protection of the Town. He stated that staff suggests the dates September 17, September 22, and September 24 to hold the next meeting. It was the consensus of Council that either September 17 or September 24 should be considered. The Assistant Town Manager informed Council that both of these dates will be considered, and he will inform Council which one will best suits for the joint meeting.

## **NEW BUSINESS**

A) Review and Consideration of Request of Arlene Jones in Conjunction with the Franklin Street Festival on The Crooked Road Event

In the absence of Arlene Jones, the Town Manager presented the Franklin Street Association's request that they be able to use the Claiborne Avenue parking lot and the parking lot beside Studio Belle Visage for the use of their vendors during the Franklin Street Festival on The Crooked Road event that has been set for August

29, 2009 from 9:00 a.m. to 5:00 p.m.

Council Member Lester questioned if there were any complaints from last year's event, other than the bad weather. The Town Manager stated that other than the bad weather, the event seems to be fairly well run.

Council Member Greer stated that the first ten parking spots at the Claiborne Avenue parking lot needed to be left open.

- Motion was made by Council Member Greer to approve the request with the restriction of ten lots on the Claiborne Avenue parking lot, with the lots remaining open, 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.

B) Review and Consideration of Franklin County Public Schools

The Assistant Town Manager presented to Council a request of the Franklin County Public Schools that was in relation to a variance request that was presented before the Town's Board of Zoning Appeals (BZA). The Franklin County Public Schools had appealed the denial of a zoning permit request, with the BZA approving their request when the applicant came before them. Prior to the BZA hearing the school's request, Mr. Steven C. Oakes, Director of Facilities & Transportation with Franklin County Public Schools, submitted a request for Council to consider waiving and refunding the \$350 fee for the appeal. Presented before Council was their consideration to consider Mr. Oakes request, plus the cost of mailing that was necessary to file the appeal.

There being no discussion, the Mayor entertained a motion.

- Motion was made by Council Member Lester to refund back to the Franklin County Public Schools the amount as requested, with motion on the floor being seconded by Council Member Greer. There being no discussion, let the record show that the motion on the floor passed unanimously.

C) Review and Consideration of Holding a Town Hall Meeting

At the request of Council, the Town Manager stated that a Town Hall meeting has been tentatively set for October 27, 2009, starting at 6:00 p.m., to be held at the Rocky Mount Municipal Building. He further stated that if the date and time is suitable to Council, staff will proceed with scheduling the meeting for the public to attend. He also pointed out to Council that the proposed format of the meeting is identical to last years, with the department heads presenting a general overview of the projects that they are working on, as well as answering any questions from citizens. The Council will not be sitting at the dais, but will be sitting down with the public, with the department heads sitting up front to address the Council and the

public. The Town Manager asked Council if they would like to expand this Town Hall meeting to include inviting state and federal elected officials.

There being no discussion, the Mayor entertained a motion.

- Motion was made by Council Member Lester for Council to recommend to staff to set the meeting date for October 27, and to invite County, state, and federal officials that may want to attend, with motion on the floor being seconded by Council Member Greer. There being no discussion, let the record show that the motion on the floor passed unanimously.

D) Review of Inventory List of Vacant Buildings in Town

The Assistant Town Manager and the Director of Community Partnership for Revitalization (CPR) presented to Council for their review a list of vacant buildings located in-town. The CPR Director informed Council that with the Town partnering with CPR, they are trying to formalize a current list. It was pointed out:

- Report includes information on vacant properties available for sale or lease in the Town.
- The property inventory can also be used as a valuable resource for recruiting new businesses in the area.
- This information will need to be regularly updated to reflect the current status of available property.
- CPR and its Economic Restructuring Committee has future plans to incorporate this data onto the CPR website and to develop a business recruitment package. The list still has some property owners that need to be contacted, but CPR hopes to have list ready to be put on the website once they get the property owners' permission to do so.

E) Review and Consideration of Request of Council Member John Lester

Council was informed by the Town Manager that Council Member Lester had asked him and the Town Attorney to seek an opinion from the Attorney General or Commonwealth's Attorney as authorized by Section 2.2-505 of the Code of Virginia on whether or not a conflict of interest exists in having a member of Town Council also serve as Chief of the Fire Department due to the funding relationship that exists between the Town and the volunteer fire department. Due to this request, the Town Manager and Town Attorney refer this request to Council before proceeding.

Council Member Lester stated:

- Unfortunately this occurs in a small community like Rocky Mount where people wear several hats, referencing this happening in the Finance Department in relationship to accountability that was pointed out by the Town's auditors last year.

- Vice Mayor Dillon serves as a Council member, and also as Fire Chief, getting paid stipends for going out on calls, and also getting paid as Fire Chief; plus, stipend for Council pay, with this amount exceeding the \$10,000 bracket that is allowed annually by the State.
- These codes and regulations are put in place for a reason and is a regulatory policy put in place.
- Believes Vice Mayor Dillon needs to have this issue resolved. And by the same token, every time there is an election, this conflict of interest keeps coming up and needs to be resolved.

Council Member Walker questioned why this issue was not addressed in 2006 when Vice Mayor Dillon was appointed to fill the left over two year Council term when Mayor Angle took office. Council Member Lester stated that he believes this is the first time the amount Vice Mayor Dillon has been paid has gone over the \$10,000 threshold.

Vice Mayor Dillon stated:

- Went over what the five line officers receive on a sliding scale for stipend pay.
- If he was worried about the money, he could simply not answer the calls, but for each one of his members, he is proud of them, and they don't need to worry about answering calls due to be worried about how much money they are being paid.
- In years past, some members did not want to accept stipends, but instead, donate to whatever they wanted to, but they were told by the Town's Finance Department they would have to receive payment, then themselves would have to donate to whomever.
- Taxes are also paid on these funds.
- What Council Member Lester stated he has made barely exceeds what the State requires.
- None of them get anything under contract other than what Council votes for them to receive.
- Went over history of what has happened in the past.
- There is even an expense just for driving to the building.
- During the past three to four months, it seems like the Fire Department has been picked on, and he does not like the publicity unless it is positive, and it really hurts to have to address this.
- Firefighter I position actually takes about 150 hours and what they get paid for is far less than what they put into it.
- Referenced when the Mayor and Council came to him to be appointed to fill-in a vacant position, and at that time, he relayed to them that if his serving as Fire Chief could make a difference.
- Apologized to his men and the whole department as he has to sit during this meeting and go into this, as he does not want to show any negativity.

Council Member Lester replied to the statement of Vice Mayor Dillon:

- What Vice Mayor Dillon has state is as much window dressing as he has seen.
- This conflict did not come up until Vice Mayor Dillon went over the threshold.
- Mentioned the Town's wellness program and Vice Mayor Dillon cutting this, and then putting back into his Fire Department budget money that was taken out, referencing the dress uniforms as well.

Vice Mayor Dillon responded by stating:

- At the request of Vice Mayor Dillon, the Finance Director confirmed that those uniforms were dress out uniforms.
- Council Member Lester is talking out of both sides of his mouth as at one time Council Member Lester had requested an increase of stipend pay for the volunteer fire department personnel.

Council Member Seale commented that the stipends have nothing to do with uniforms, and asked Vice Mayor Dillon if he wanted to have the Attorney General or Commonwealth Attorney to look into the request of Council Member Lester. Vice Mayor Dillon replied that this is a decision to be made by Council and he would abstain from this, and that it would not make any difference to him one way or the other.

The Mayor stated that no doubt, the fire department has done a good job, but what is before Council at this time is whether or not to approve the request of Council Member Lester to seek an opinion from the Attorney General and Commonwealth Attorney.

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

- Motion was made by Council Member Lester for Council to seek an opinion regarding his request from the Attorney General and Commonwealth Attorney. Council Member Seale stated he would like to know what the State Code says about this also; therefore, this is his reason to second the motion on the floor. A roll call vote was taken. Voting in favor of the motion on the floor by Council Member Lester were Council Members Lester and Seale. Voting in opposition to the motion on the floor were Council Members Greer, Strickler, and Walker. Let the record show that Vice Mayor Dillon abstained. Let the record further show that the motion on the floor failed three to two.

The Mayor stated an opinion would not be sought from the Attorney General or Commonwealth Attorney due to motion on the floor being defeated.

## **COMMITTEE REPORTS**

### A) Finance & Human Services Committee

The Town Manager informed Council that the Finance & Human Services Committee had met on August 4, 2009 to review the following:

1. Proposed changes to the Town's Personnel Policy Manual, Section TRM #V-01: Recruitment and Employment Policy.

The committee reviewed the proposed changes to the Town's Personnel Policy Manual that require Town or County residency for certain positions, and authorize the creation of a preference for those who live in and around the Town's community among otherwise equally qualified candidates for public safety positions.

The committee recommended revising TRM #V-01 as presented to Council for their consideration of approval. There was discussion among the committee members regarding other Town positions and the residency required for them.

The Town Manager confirmed to Council that he has sought the Town's outside legal counsel regarding this matter and he was informed that the proposed changes were sound.

The Mayor referenced item #8 "Formal, written job offers will be made by Department Managers with the approval of the Town Manager", with the Mayor stating that he would prefer that the written job offers continue coming from the Town Manager, with Council Member Greer agreeing.

Council Member Lester questioned what the Town Manager would do if there are two people that meet the criteria, but neither one lives in Town. The Town Manager informed Council Member Lester that the phrase states "...who reside in and around our community...", which provides a foundation of making a suggestion. Council Member Lester stated that he just wanted to make sure the Town avoids hiring someone that is related to someone just because they live in the Town. The Town Manager indicated to Council that he will hire on the merits of the perspective applicant.

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

- Motion was made by Council Member Strickler to approve the changes as proposed, with the deletion of job offers coming from Department Managers, but instead to come from the Town Manager, with motion on the floor being seconded by Council Member Greer. There being no discussion, let the record show that the motion on the floor passed unanimously.

2. Funding Options for the Uptown Project.

The Town Manager reported the following:

- The committee was briefed on the need to close a \$1.4 to \$1.6 million dollar shortfall in the financing of the uptown renovations. The project will potentially cost between \$1.9 and \$2.1 million. The Virginia Department of transportation and Department of Housing & Community Development funds totaling \$631,000 have been pledged for the project. The committee considered three immediate options: re-bid the project with design changes to reduce the cost; borrow the funds needed; and use funds from the Town's reserves.
  
- The committee recommended that the Finance Director investigate the financing available through Virginia Municipal League (VML), as well as determining if the balloon payment due soon on the Emergency Services Building could be rolled into a new load package. The current rate available from VML is potentially less than 2%, but that rate can be adjusted. The consensus of the committee was to move forward with the project. The funding should be with borrowed funds if the debt service on the funds could come from either reserves or from current revenue. Council Member Greer (who is also a member of the Finance & Humans Services Committee) was eager to see that any debt incurred did not result in a tax increase.

The Town Manager asked what Council would like for staff to do regarding these options as there were a lot of pros and cons to consider. The Mayor suggested that staff continue to look at all possible options, but in the meantime, to keep the project moving forward due to time and costs that have already been put forth.

The Assistant Town Manager confirmed to Council that the bid on the project is good for 90 days and staff has until the end of September, which is approximately 45 days to take action on whether to accept the contract from the low bidder. The Mayor questioned if it is any possibility the Town could reject all bids and re-bid the project, The Town Manager stated that the committee covered a lot of what was being asked from Council and the fear is, the current bid is actually a very attractive bid, and if the Town rejects it and goes back out to bid, the Town may end up having more gaps in the financing.

Vice Mayor Dillon stated he needs a breakdown on what can be done in-house, with the Town Manager so noting.

Council Member Lester asked that Council keep in mind that this project has been delayed almost two years due to the State.

The Mayor advised to keep moving the project forward, and for staff to get more choices.

The Town Manager confirmed that he will get a Finance Committee meeting

together in two weeks, or either approach Council to have a special called meeting. The Mayor so noted.

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

### A) Referrals to Planning Commission from Town Council

The Assistant Town Manager informed Council that as a result of staff discussions with project consultants for the Uptown Project, he is requesting Council to refer the following issue to the Planning Commission:

- The Town has significant investments in the Uptown and Downtown projects, which beautify and improve the livability of Rocky Mount.
- What if a utility company required access through the revitalized areas? What protection does the Town have for its investment?
- By prohibiting overhead line deployment and development, the Town can have some protection of the significant public investments that are underway, or have been completed.
- Suggest that the Planning Commission and staff work together to develop language to add to the Central Business District zoning requiring all new development (and, should it be Council's pleasure to include, redevelopment) to be served by underground utilities, and that all transmission, distribution, and service utility lines be underground through the Central Business District.

The Assistant Town Manager referenced State Code which authorizes his proposed action: § 15.2-2015. Use of streets, etc., for transportation and utilities; removal and alteration of facilities and equipment; permits and charges. Any city or town...may prescribe the location in, under or over and provide for the issuance of permits for the use of such public rights-of-way and places for the installation, maintenance and operation of tracks, poles, wires, cable, pipes, conduits, bridges, viaducts, subways, vaults, areas and cellars; may require tracks, poles, wires, cables, pipes, conduits, bridges, viaducts, subways and underpasses to be altered, removed or relocated either permanently or temporarily; may charge and collect compensation for the privileges so granted; and may prohibit such use of such public rights-of-way and places except as otherwise provided by law. No such use shall be made of the streets, highways, roads, alleys, bridges, viaducts, subways, and underpasses without the consent of the city or town.

The Town Manager informed Council that once these dollars are paid out to put underground, this assures that they stay underground.

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

- Motion was made by Council Member Strickler to grant this request, 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.

B) Rise 'N Shine Appearances

It was confirmed that the Assistant Town Manager appeared on the Rise 'N Shine show this morning.

**COUNCIL CONCERNS**

A) Vice Mayor Dillon

Vice Mayor Dillon took the opportunity to recognize those members present of the Rocky Mount Fire Department that had just completed their Firefighter I certification, and had enrolled in Firefighter II classes, along with several long-standing members of the Fire Department as well.

Council Member Lester stated that he does appreciate everything they do, and hope they were not offended by his comments to Vice Mayor Dillon.

The Mayor thanked them for their dedication to the community.

**CLOSED MEETING**

At 7:52 p.m., motion was made by Vice Mayor Dillon to go into *Closed Meeting*, and seconded by Council Member Lester and carried unanimously to discuss the following:

- Section 2.2-3711(A): Discussion concerning prospective business or industry, or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community (Industrial Park).

At 8:12 p.m., motion was made by Council Member Greer to come out of *Closed Meeting* and to reconvene the meeting back into open session, with motion on the floor being seconded by Council Member Walker 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 Strickler 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 Seale. The Mayor swore to adopt the motion on the floor by Council Member Strickler 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 no action was taken.

### **ADJOURNMENT**

At 8:15 p.m., motion was made by Council Member Lester to adjourn, seconded by Council Member Greer and carried unanimously.

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Steven C. Angle, Mayor

ATTEST:

\_\_\_\_\_  
Patricia H. Keatts/Town Clerk

/phk

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