

**ROCKY MOUNT TOWN COUNCIL
REGULAR COUNCIL MEETING
DECEMBER 13, 2010**

The December 13, 2010 regular Council meeting of the Rocky Mount Town Council was held in the Council Chambers of the Rocky Mount Municipal Building located at 345 Donald Avenue, Rocky Mount, Virginia at 7:00 p.m. with Mayor Steven C. Angle presiding. The following members of Council were present:

Vice Mayor Gregory B. Walker and Council Members Bobby M. Cundiff, Jerry W. Greer, Sr., P. Ann Love, Robert L. Moyer, and Robert W. Strickler

The meeting was called to order by Mayor Angle.

For the record, the following were present: All members of Town Council as noted, Town Manager C. James Ervin, Assistant Town Manager/Community Development Director Matthew C. Hankins (and Planning & Zoning Administrator), Town Attorney John T. Boitnott, Assistant Chief of Police Roger Smith, Finance Director Linda Woody, Public Works Director Cecil R. Mason, Superintendent of Water Department Robert Deitrich, Fire Chief Charles Robertson, 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.

Council Member Cundiff requested Council's consideration of amending the agenda to include under *Closed Session*:

- 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 an 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 counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter (bonding of public improvements in Town of Rocky

Mount subdivisions).

Vice Mayor Walker requested Council's consideration of amending the agenda to add under *Old Business* Town employees' Christmas bonuses.

- Motion was made by Council Member Greer to approve the agenda as presented, seconded by Vice Mayor Walker and carried unanimously by those present.

SPECIAL ITEMS

The Mayor recognized the Franklin County High School government classes of Mrs. Shepherd and Mr. Buckman.

The Mayor mentioned that Acting Chief of Police David Cundiff was not present during the Council meeting due to an accident he had on his farm, with Assistant Chief of Police Roger Smith giving Council an update on Mr. Cundiff, stating that the hospital would be keeping him until tomorrow because the doctors were concerned about possible blood clot in the face, and that his back was still hurting.

PUBLIC HEARING

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

Proposed Establishment of an Arts & Culture District as Permitted in Virginia Code § 15.2-1129.1

After being duly advertised, The Mayor recessed the meeting to hold a public hearing to allow the public opportunity to comment on the establishment of an Arts & Culture District as permitted in Virginia Code § 15.2-1129.1. The goal in the creation of such a district is the establishment of a permanent zone in which broadly defined arts and cultural businesses may locate and receive incentives which help new businesses survive until they build their clientele.

The Mayor opened the floor to anyone wishing to come before Council to speak regarding the public hearing matter.

The Assistant Town Manager came before Council stating the following:

- Have been talking and discussing this matter for about a year now, with the Planning Commission meeting on December 7, 2010 to hear this request. The Planning Commission has recommended unanimously the creation of the Arts & Culture District for Council's consideration.
- If Council agrees with the recommendation of the Planning Commission, the Assistant Town Manager encourages the implementation of both the creation ordinance and the

proposed incentives ordinance as a second step to give the Town more of a bite in encouraging the development of those businesses. Many of the incentives come from discussion with the Planning Commission; however, since creation of incentives is tax and finance policy, it does not require a recommendation from Planning Commission unless Council would like to refer this matter to the Planning Commission for an opinion.

- This is a first pass and is offered at this time for Council review and had been advertised for public input. Since Council has not seen these incentives prior to receiving their input, it is reasonable to table the issue should Council see fit.

- The Assistant Town Manager recommended the incentives because they really don't cost the Town. He strongly believes that these incentives for new businesses will help fill available retail space and will help attract shoppers to a destination, helping attract new clients to existing businesses.

The Assistant Town Manager confirmed to Council that the incentives would cost the Town from the viewpoint of when a new business is starting up, with the Town Manager explaining that the incentives are set up in a similar way as those for the Town's Enterprise Zone, which encourages businesses to locate in the zone.

The Mayor stated no one had signed up to come before Council to speak regarding this matter, but he opened the floor to anyone wishing to come before Council to speak at this time. 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 Greer to approve the proposed ordinance as it appears, along with the proposed incentives as presented, 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 by those present.

APPROVAL OF MINUTES

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

- November 8, 2010 Regular Council Meeting
- November 28, 2010 Annual Council Retreat Meeting

The Mayor asked if there were any corrections, and there being none, the Mayor entertained a motion.

- Motion was made by Vice Mayor Walker to approve the draft Council meeting minutes as presented with motion on the floor being seconded by Council Member Moyer. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

APPROVAL OF CONSENT AGENDA

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

- Miscellaneous Resolutions/Proclamations
 - Review and consideration of renewal of lease agreement with Century Link
- Miscellaneous Action
- Departmental Monthly Report
 - Community Development
 - Finance Department
 - Fire Department
 - Police Department
 - Public Works Department
 - Wastewater Department
 - Water Department
- Bill List

There being no discussion, the Mayor entertained a motion.

- Motion was made by Council Member Strickler to approve the draft *Consent Agenda*, with motion on the floor being seconded by Council Member Love. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

HEARING OF CITIZENS

The Mayor stated that no one had contacted the Town Clerk to come before Council to speak, but at this time, opened the floor to anyone wishing to come before Council to speak at this time. Let the record show that no one came forward.

OLD BUSINESS

A. Proposed Boundary Line Adjustment

The Town Manager gave a report on the proposed boundary line adjustment:

- Worley Developments, Inc. approached the Town and Franklin County in February 2010 regarding a proposed subdivision that would be partially inside the Town and partially outside of the Town. (Prior to the meeting, Council had received a copy of a map showing the property owned by Worley Developments, Inc., and also a map showing the preliminary layout of the new subdivision indicating how the new lots will integrate with the existing lots.)
- Based on a review of the request, the Rocky Mount Town Council and Franklin County Board of Supervisors directed staff to hold a public input session to solicit information from the Town and County citizens in the area of the proposed boundary adjustment. The input session was held on June 22, 2010. Property owners adjacent to or near the proposed adjustment area were invited to attend. The comments presented at the meeting were consistently positive and there was a general consensus among those that attended that the entire Tanglewood Hills Subdivision should be moved into the Town rather than just the area proposed by Worley Developments, Inc. The reasons given for extending the boundary adjustment to the entire subdivision included uniformity of service delivery (trash collection, snow removal, and police) and uniformity of code enforcement.
- Based on the input received, a draft proposed area for a boundary adjustment was developed that includes the Worley Developments, Inc. request, as well as the parcels of the existing subdivision. (Prior to the meeting, Council had received a copy of a map depicting the proposed area to be taken into the Town.)
- The area proposed for inclusion into the Town includes 54 parcels, 33 with homes. The total current value of the parcels with structures is \$7,926,200. The subdivision of the Worley Developments, Inc. parcel will result in approximately 50 additional parcels that would be valued at approximately \$1,950,000. When fully built out, the new development would have parcels and structures valued at an estimated \$11,000,000. (Prior to the meeting, Council had received a financial analysis of the proposed boundary adjustment.) The increase in real estate taxes and personal property taxes is offset by the decrease in utility revenue. The boundary adjustment is therefore a generally revenue neutral proposal prior to the build-out of the proposed development.

The Town Manager indicated that if Council so chooses to pursue this, the Town and County staff will need to develop a proposed agreement and schedule public hearings as required by Virginia State Code Sections 15.2-3107 and 15.2-3108. The Town Manager confirmed to Council that the Town Attorney could draft up the voluntary boundary adjustment agreement.

There was discussion between the Town Manager and Council regarding that it would not make sense for the Town to take in the proposed area unless the property along State Route 40 West corridor coming from the Town up to the proposed property was also taken in, and if this was done, would have to discuss with Franklin County the Town doing a possible annexation. It was also discussed that the Town already services a good portion of the State Route 40 West corridor, and that it would only be a win/win situation to include that portion in with taking in the proposed boundary adjustment.

Council requested that the Town Manager approach the County about including the State Route 40 West corridor as discussed.

B) Update on Uptown Project

The Assistant Town Manager gave Council an update on the Uptown Town Project, with discussion from Council regarding:

- Project not completed and will not be done as long as there is inclement weather. It may be until April until it is completed due to the weather.
- Need to stay on top of the contractor to keep the ruts in the road filled in until paving can be done.
- Discussed going back and looking at the entire length of the contract to see how many cold days are listed in it, with Assistant Town Manager stating he will make sure that the contractors are not allowed any more days than what the contract states they are allowed.
- Discussed having Chairman Robert Strickler of the Finance & Human Services Committee review the invoices from the contractor with the Assistant Town Manager.
- Discussed paving taking place once it gets warmer weather.
- The Assistant Town Manager stated that there has been unforeseen delays regarding unmarked or unknown utilities.
- Also had issues with storm drains, easements, and old concrete gutter panes that were covered up and no one knew they were there.
- Does not want paving to be done until it is 44 degrees or above.
- Electric work is advancing on both sides of the street.
- Did have a number of unsatisfactory conditions or jobs that have been added to the punch list, with the contractors stating they will address them before project is completed.
- Virginia Department of Transportation (VDOT) will also be doing an inspection before Christmas to make sure contractor is meeting VDOT's specifications.
- Town has bought some of the enhancement items to keep costs down and sought local vendors to give a quote.
- Strong preference is to make sure contract is done right, which means it will be longer getting completed.
- Added expense will be to make sure paving is done to keep dust down.
- Will advertise for façade work to begin.
- Most of conduit is installed, with about 300 feet of curb and guttering and gutter pans to be done.
- Has concern over Warren Street, as the street is torn up.

The Assistant Town Manager stated he is trying to address all telephone calls from concerned citizens regarding the Uptown Project, and realistically, the Town may be looking at another three months before the project is finished.

C) Employees' Christmas Bonuses

Vice Mayor Walker stated he was uncomfortable about Council reducing the Town

employees' Christmas bonuses and would like Council to reconsider reinstating the Christmas bonuses to what had been presented in the budget. There was discussion amongst the Council members on how the employees have not received a pay increase for three years, and how hard the employees have worked.

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

- Motion was made by Vice Mayor Walker to reinstate the Town employees' Christmas bonuses as originally stated in the budget at \$400 base, with \$50 per year, with motion on the floor being seconded by Council Member Love. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

NEW BUSINESS

A) Draft Resolution of Acceptance of Property Donated to Town of Rocky Mount

The Town Manager informed Council that relatives to parcel of land (Shirley V. Vaughn and Lindsey Dewitt Vaughn, Co-Trustees of the Pierce Latimer Vaughn Revocable Trust dated February 18, 1993) would like to donate said parcel of land containing 1.064 acres (+/-) to the Town, which is adjacent to the Celeste Park to the Town. He further stated that if the Town accepts the donation of property, Council must approve a draft "Resolution of Approval and Acceptance of Conveyance of the Vaughn Property Identified as Tax Map Number 207.00-504.00".

Council Member Greer stated that the last time this was discussed, it was going to cost the Town approximately \$2,200. The Town Manager informed Council that this had already been discussed earlier by Council, with the costs already being paid by the Town, confirming also that the parcel was not viable for businesses or homes, with the Vaughn's best offer to deed to the Town. The Town Manager went over the history of Council giving staff permission to negotiate with property owners, with several Council members meeting with parties involved to discuss the transaction with Council's permission.

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

- Motion was made by Council Member Moyer to not accept the land as an addition to Celeste Park, with motion on the floor being seconded by Council Member Greer. Discussion ensued. Vice Mayor Walker stated that if the Town has already paid the money and agreed to do so some months ago by a majority of Council, with the Town not accepting it now, where does the Town stand and how does this make the Town look. The Mayor voiced the same concerns. The Finance Director confirmed to Council that the real estate tax on said property was approximately \$10. A roll call vote was taken. Voting in favor of the motion on the floor to not accept the land as an addition to Celeste Park were Council Members Greer and Moyer. Council

Member Cundiff abstained from voting. Voting in opposition to the motion on the floor were Vice Mayor Walker, Council Members Strickler and Love, along with Mayor Angle. Let the record show that motion on the floor was defeated four to two, with one abstention.

Let the record show another motion was brought to the floor regarding the Town accepting said parcel of land.

- Motion was made by Council Member Strickler to accept the property, with motion on the floor being seconded by Council Member Love. Discussion ensued, with Vice Mayor Walker stating that if this was the first time this matter came up before Council to vote on, his vote would have been no, but now the Town has already paid the money. Council Member Cundiff stated he was abstaining due to the fact that he was not well informed regarding the matter. A roll call vote was taken. Voting in favor of the motion on the floor were Vice Mayor Walker, Council Members Strickler and Love, along with Mayor Angle. Voting in opposition to the motion on the floor were Council Members Greer and Moyer. Abstaining was Council Member Cundiff. Let the record show that the motion floor passed four to two, with one abstention.

COMMITTEE REPORTS

Let the record show that there were no committee reports at this time.

OTHER MATTERS, CONCERNS AND RISE 'N SHINE APPEARANCES

A) Referrals to Planning Commission from Town Council

Let the record show there were no referrals at this time.

B) Rise 'N Shine Appearances

The Mayor mentioned that Council Members Cundiff and Love appeared on the Rise 'N Shine show.

COUNCIL CONCERNS

A) Vice Mayor Walker

The Vice Mayor referenced an article in *The Franklin News-Post* that mentioned that some Council members were receiving "perks", specifically the issue dealing with health insurance, with Vice Mayor Walker also giving a brief synopsis of the history of how this benefit is offered to all Council members. He further stated that due to this,

he did accept the benefit, and any further discussion regarding the benefit would be discussed during Council's budget process.

Council Member Greer mentioned that he also has this benefit.

B) Council Member Moyer

Council Member Moyer questioned why approximately 230,000 gallons of treatable water was drained from one of the Town's water tanks, with the Water Department Superintendent explaining that the company that does the cleaning on the Town's water tanks came to clean it without scheduling a time to do so, and if they did not clean the tank at that time, it would be a considerable time spam before they could do it, with the water tank being in need of cleaning. He further explained that he discussed this in detail with the company, explaining that in the future they would have to schedule the cleaning through the Water Department for a time that was acceptable by the Town. It was also discussed that in order to clean the water tanks, you can only drain the water 1/3 down. He further confirmed to Council that in the future he would be holding the company accountable. The Town Manager informed Council that staff would make sure the contract with any company would state that the Town has to have a heads up, with staff making sure that any cleaning of the water tanks would be worked out for what is best for the Town.

CLOSED MEETING

At 7:57 p.m., motion was made by Council Member Greer to go into *Closed Meeting*, and seconded by Council Member Moyer and carried unanimously to discuss the following:

- Section 2.2-3711(A).1 - Discussion, consideration or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body (Town Manager's performance).
- 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 an 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 counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe with be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter (bonding of public improvements in Town of Rocky Mount subdivisions).

At 8:45 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 Love and carried unanimously by those present.

CERTIFICATE OF CLOSED MEETING

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

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

Now, Therefore, Be It Resolved that the Rocky Mount Town Council hereby certifies that, to the best of each members' knowledge: (1) only public business matters lawfully exempted from open meeting requirements under this chapter and (2) only such public business matters as were identified in the motion by which the *Closed Meeting* was convened were heard, discussed, or considered in the meeting by the public body.

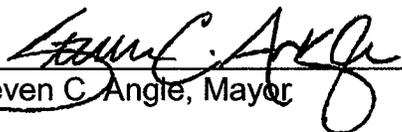

Steven C. Angle, Mayor

- 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 Love. 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 Gregory B. Walker and Council Members Bobby M. Cundiff, Jerry W. Greer, Sr., P. Ann Love, Robert L. Moyer, and Robert W. Strickler.

The Mayor reported that no action was taken.

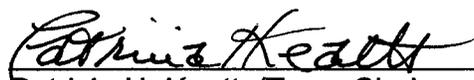
ADJOURNMENT

At 8:50 p.m., motion was made by Council Member Moyer to adjourn, seconded by Council Member Strickler and carried unanimously by those present.



Steven C. Angle, Mayor

ATTEST:



Patricia H. Keatts/Town Clerk

/phk

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