

**ROCKY MOUNT TOWN COUNCIL
REGULAR COUNCIL MEETING
FEBRUARY 15, 2011**

The February 15, 2011 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, and Robert L. Moyer.

Let the record show that Council Member Robert W. Strickler was not present.

The meeting was called to order by Mayor Angle.

For the record, the following staff members were present: Town Manager C. James Ervin, Assistant Town Manager/Community Development Director Matthew C. Hankins (and Planning & Zoning Administrator), Town Attorney John T. Boitnott, Interim Chief of Police David Cundiff, Assistant Chief of Police Roger Smith, Finance Director Linda Woody, Public Works Director Cecil R. Mason, Superintendent of Water Department Robert Deitrich, Superintendent of Wastewater Treatment Plant Timothy Burton, Fire Chief Charles Robertson, and Deputy Clerk Stacey B. Sink.

The Mayor led the *Pledge of Allegiance*.

APPROVAL OF AGENDA

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

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

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

SPECIAL ITEMS

The Mayor noted that Council Member Strickler is absent from the meeting due to his

wife's illness. She will be having bypass surgery on Thursday, and the Town wishes her well.

The Mayor recognized students in attendance from the Franklin County High School government classes of Mr. Buckman.

The Mayor asked Chief Cundiff to come forward and introduce a new police officer, with Chief Cundiff introducing Ken Criner, and noting that Officer Criner joined Town staff about a month ago, and he is a retired homicide investigator from the Roanoke City Police Department. Chief Cundiff also noted that there are two other new officers that were unable to attend tonight, and they will be introduced at a later date. The Mayor welcomed Officer Criner to the Town.

PUBLIC HEARINGS

After being duly advertised, let the record show that the Mayor recessed the meeting to hold the following public hearings:

(1) *Rezoning Request of Danny Perdue*

Let the record show that Danny Perdue previously submitted a request to rezone Franklin County Tax Map & Parcel Number 2100028900 from R1 (Low Density Residential) to GB (General Business) for the intended purpose of operating a retail convenience store, including fuel sales and a car wash. The Town of Rocky Mount Planning Commission heard the rezoning request of Mr. Perdue on February 1, 2011, and recommended to Town Council denial of the request with a vote of six to zero by Planning Commission Members present.

The Mayor noted that Mr. Perdue has withdrawn his application for rezoning, effective Monday afternoon, February 14, 2011, and due to the withdrawal there will be no public hearing tonight in reference to the request.

The Mayor recognized Council Member Cundiff who expressed interest in commenting on the withdrawal. Council Member Cundiff asked that Council give some consideration, due to the fact that this withdrawal was made at the last minute, to requiring withdrawals be made earlier, so that people would not be so affected, perhaps on Wednesday before the Council packet goes out, which would be one week after the Planning Commission meeting. The Mayor expressed his belief that applicants cannot be forced to withdraw by a certain date, but they could be encouraged to do so to avoid people coming out unnecessarily. The Assistant Town Manager agreed with the Mayor that it could probably be encouraged, and noted that at Council Member Cundiff's request, he

has started researching State Code to see if it is permitted, and he will report his findings back to Council.

(2) Request of Franklin County Electoral Board

The Mayor advised that the Town has received a request from the Franklin County Electoral Board for the Town of Rocky Mount to consider moving the Rocky Mount East Polling Place (commonly known as the National Guard Armory) located at 280 Tanyard Road, Rocky Mount, Virginia to the Rocky Mount First Church of the Brethren, located at 405 Tanyard Road, Rocky Mount, Virginia.

The Mayor called for any representatives of the Electoral Board to come forward to speak in regards to the request.

Sallie Newbill of 345 Old Brook Road, Hardy, Virginia, came forward, stating that she is the Secretary of the Electoral Board and the Board is requesting permission to move the polling place to the First Church of the Brethren. The National Guard has moved in all of its equipment and has fenced off the lot, and it is now difficult to get voters in and out. There is plenty of parking available at the church and it also meets all of the other requirements.

For the record, the Mayor clarified with Ms. Newbill that the National Guard Armory has not said that the Town cannot use the Armory. The issue is just with the access right now.

Ms. Newbill advised that under Section 5 of the Voting Rights Act of 1965, the move must be cleared by the Department of Justice.

The Town Manager added that the Franklin County Board of Supervisors voted today to allow the move, and also noted that any vote taken by Town Council will be subject to the subsequent approval of the Department of Justice to make sure it is in compliance with the Voting Rights Act.

The Mayor noted that three people had indicated on the sign-in sheet a desire to speak in regards to this request. Let the record show that all three people declined to speak as their intentions had been to speak in reference to the previous public hearing which was cancelled due to the withdrawal of the applicant. The Mayor then opened the floor to anyone who wished to speak in regards to this request. Let the record show that no one came forward.

The Mayor called the meeting back into regular session and asked the Town Manager if he wished to add anything to the discussion, with the Town Manager

advising that in the course of discussions he did offer the Rocky Mount Municipal Building as a facility but in terms of ingress and egress it was deemed not suitable.

There being no questions or comments from Town Council, the Mayor entertained a motion.

- Motion was made by Vice Mayor Walker to approve the request to move the polling place, noting that he finds it increasingly more difficult to get into and out of the Armory, with motion on the floor being seconded by Council Member Cundiff. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

APPROVAL OF MINUTES

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

- January 10, 2011 – Regular Council Meeting

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

- Motion was made by Council Member Love to approve the draft Council 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

Prior to the meeting, Council received for consideration of approval the *Consent Agenda*, which consists of miscellaneous resolutions and proclamations, miscellaneous action, departmental monthly reports, and the bill list. This month's *Consent Agenda* consists of the following items:

- Miscellaneous Resolutions/Proclamations
 - Review and consideration of approval of draft "Town of Rocky Mount Supplemental Appropriation Resolution for Fiscal Year Ending June 30, 2011" for phone systems in both the Rocky Mount Emergency Services Building and the Rocky Mount Municipal Building.

- Miscellaneous Action
 - Review and consideration of approval of the Rocky Mount Town Council rescinding the previously issued pledge of financial support for Rising Opportunities.
 - Review and consideration of approval of request of Outlaw Cruisers Car Club to hold their annual event on May 29, 2011, along with permission to have three Cruise-Ins on the dates of April 30, 2011, July 30, 2011, and October 29, 2011.
- Department Monthly Reports
 - Community Development Department
 - Finance Department
 - Fire Department
 - Police Department
 - Public Works Department
 - Wastewater Department
 - Water Department

There being no discussion, the Mayor entertained a motion.

- Motion was made by Council Member Greer to approve the draft *Consent Agenda*, 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.

HEARING OF CITIZENS

(1) Scheduled Speakers

The Mayor noted that one group contacted the Town prior to tonight's meeting asking to address Council. This group was the Franklin County Humane Society Adoption Center who requested review and consideration to conduct a fundraiser in the Town corporate limits scheduled for April 23, 2011. The Mayor asked if a representative of the group was present. Let the record show that no spokesperson came forward. The Mayor asked the Town Manager to detail the request.

The Town Manager advised that the Town received a letter from Ms. Cooper asking if the Humane Society could have a "Heels for Hounds Run" on April 23rd. This would be a fundraiser for the Humane Society Adoption Center. They have previously discussed the route with the Chief of Police. He believes that it does not pose any issues and is something his staff can handle. Staff has no objection to it. It will start at the Farmers' Market and go 150 yards. It is a short event.

Vice Mayor Walker questioned if the road would be closed for the event. The Town Manager advised that the request does not ask for a road closure, but staff will make sure of what Ms. Cooper's needs are. The Mayor noted that with such a short distance, it will probably only take ten minutes.

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

- Motion was made by Council Member Greer to approve the request of the Franklin County Humane Society, with motion on the floor being seconded by Council Member Moyer. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

(2) Unscheduled Speakers

The Mayor opened the floor to anyone wishing to come before Council to speak. Let the record show that the following speakers came forward:

Dr. Francis Amos, of 65 Lawndale Street and known as "The Farm," came forward stating that previously there was a request to rezone part of South Main Street which has now hopefully been resolved. There were some concerns that came out of the rezoning request that he would appreciate Council to look at closely. He commended the Planning Commission on its decision and feels that it was in the best interest of Franklin County and Rocky Mount. He would like for the Town to look ahead at comprehensive planning and what the future holds, and what each of the residential communities have that are assets to the Town. In this particular case there are historical assets and residential areas that people have invested in. It is important to address the impact of putting industry up against residential areas. They need to be protected. There are also intangible assets that need to be addressed in any future Comprehensive Plan, such as the historical resources of this particular area of Town. The Town started here in 1773 with a small industrial complex out of the wilderness. This was improved in 1779 with the erection of The Furnace, which was Franklin County's first industry, making munitions for the Revolutionary War. This sits right near Main Street in Rocky Mount. In 1776, Captain James Lyons organized and mustered troops to fight the Cherokee. In 1779, the house that he lives in was built, and it was the headquarters for the 18,000 acre iron plantation. In 1786 this house became the first courthouse where the County was organized. He wants to remind Council that the Town does have a history that bears protection. He then passed around for Council to see the original will of James Callaway dated 1809 in which Mr. Callaway left a small piece of land called Rocky Mount to his son.

Mark Newbill of 105 Darlington Drive came forward asking for updated information on the Uptown Revitalization project and construction. The Mayor advised that at the last meeting he attended he was advised construction would be complete by the end of March if everything was perfect. The Assistant Town Manager added that the expectation currently is for April. The conduit was completed today, and the wire for Centurylink and other utilities can now be installed. The switchover should be done within the next two weeks, then the wires and poles can be taken down, and the last of the concrete work and paving can be done. The realistic expectation for completion is April.

Johnny Smith came forward to speak on the previously discussed rezoning. He wanted Council to know that people who do not live in the area are also opposed to the rezoning. He thinks the Planning Commission did a nice job of protecting the children who live in the area, and he presented Council with an additional petition of names to be added to the names already submitted in opposition to the request.

Maceo Toney of 165 Patterson Avenue came forward to speak, stating that he has an interest as well in the previously discussed rezoning request, citing the historical nature of the area. He also presented Council with an additional petition of names in opposition to the rezoning request.

The Mayor asked if anyone else wished to address Council. Let the record show that no one else came forward to speak.

OLD BUSINESS

(1) Franklin Dental Associates Special Use Permit

The Mayor called upon the Assistant Town Manager to report on the status of the Franklin Dental Associates request.

The Assistant Town Manager noted that last month there was a public hearing on this matter and it was tabled, with direction for him to meet with Donna Wray or a representative of Franklin Dental to determine what they may be interested in doing as far as screening the accessory building. He also noted that there was a response in the Council packet from Dr. Charles Clements, who is the owner of the property. The promise they have made in writing is that they will skirt the bottom with a brick type material, and they will plant shrubs, trees and flowers to screen the building. They have agreed to work with him, and he has recommended Leland Cyprus trees. The building is probably already screened nine months of the year by the existing trees. They are also interested in putting in a walkway to the

building and in adding a picnic area to make it more attractive. They will live with whatever Council conditions for them, and they will also live with Council's decision not to permit the building if this is Council's will. He offered to answer any questions from Council.

Discussion ensued:

- Council Member Love questioned if this had been discussed with Clark Arrington, with the Assistant Town Manager advising he had not followed up with Mr. Arrington. The Mayor noted that at last month's meeting Mr. Arrington had said some screening would be appropriate.
- A building permit is required and has not yet been obtained by Mrs. Wray.
- Council Member Cundiff expressed a concern in that the Town has this written rule of what is and is not allowed, and he does not think that it should be negotiable. If it is a rule, it is a rule. He thinks the Planning Commission did a good job and that Council needs to support Planning Commission's decision.
- The Mayor noted that the applicant went back and did what Council asked be done, and came forward with a proposal to make this more aesthetically pleasing for the neighborhood.
- It was noted that Leland Cypress trees can grow in excess of 15 feet, depending on how they are trimmed, and the current trees on the back side of the property are pine trees.
- Council Member Moyer noted that he believes the Town should work with the business, as they want to do the right thing.

The Mayor entertained a motion.

- Motion was made by Council Member Moyer to approve the suggestions made by Dr. Clements for the building, with the motion being seconded by Council Member Love. For the record, Vice Mayor Walker clarified that the motion to approve also includes the recommendations that were made by staff, being that the building would not be moved anymore and the applicant would obtain a building permit. Discussion ensued: Vice Mayor Walker noted that since this issue came up, he rode around the neighborhood and found that the hospital has two similar buildings, and he did not know they were there, as the hospital has screened them very well. Council Member Love noted that the hospital has also recently added a new building where the MRI truck parks, since Mrs. Wray's building was put up. Council Member Cundiff questioned if Council will now be expected to negotiate each time someone puts up a building that is larger than allowed, and again stated that a rule is a rule. There being no further discussion, the Mayor called for a vote. Let the record show that the motion on the floor was approved with a vote of four to one, with Council

Member Cundiff voting in opposition.

(2) Options for Franklin Heights Subdivision Utility Bonds

The Town Manager gave a report on options for the Franklin Heights Utility Bonds:

- In late fall Council began a discussion regarding whether or not this particular bond should be refinanced. It was Council's decision, at that time, to table the discussion.
- The May deadline is approaching to act or hold like it is.
- Based on the expected return on the Town's investments over the next twenty years, the Finance Director recommends that the best option is to carry this as debt versus liquidating assets to pay it. However, Council's guidance is needed.
- If it is still Council's intent to carry this issue forward, there are only a few days left to make a final decision.
- The Finance Director has been pooling cash assets in case it is Council's wish to pay this debt off.
- The Virginia Resource Authority will need to know this week if it is the Town's intent to do so.

The Mayor called upon Council for questions:

- Vice Mayor Walker questioned what rate the Town could get on its current certificates of deposit and bonds if they were rolled back right now, with the Finance Director advising that the rates are actually increasing a little bit. A five year investment is about three percent. Vice Mayor Walker noted that this is up from eight-tenths of a percent earlier.
- Council Member Cundiff noted that right now the Town is paying \$101,905 per year in interest and the investments are paying 1.02 percent. It will cost the Town \$80,000 per year to leave the money in the bank. In ten years, the interest will amount to \$1,019,050, and on \$2 million the Town will have to get an average of a five percent return to get \$1 million out of it. It is for sure that the Town will save \$1,019,050 if the debt is paid off. It is a gamble to assume that the Town will get more returns than what it is already getting.
- Vice Mayor Walker noted that the Town has paid on the loan for ten years, and has probably paid the majority of the interest on the loan. It should have been paid off to begin with.
- The Mayor pointed out that the other side of the coin is that the cash is kept available for whatever comes up, and the Town continues to draw interest on whatever investments it has. There is no guarantee that interest will increase, but it is a good sign that it has gone from under one percent to three percent.
- Council Member Cundiff advised that what he is afraid of is that the Town will

find other projects and will spend the money and will still have a \$2 million debt to pay.

- Motion was made by Council Member Greer to pay off the debt, with motion being seconded by Council Member Cundiff. Discussion ensued: Vice Mayor Walker noted that according to the Finance Director's figures, paying the debt off now versus not will be a wash at this point. The Town would have been better off to have paid the debt off early. The Mayor noted that in three years the Town will have paid the final payment on Wastewater Treatment Plant which will free up over \$0.5 million per year. Looking out three years, this money will roll back in instead of paying it all off right now. Vice Mayor Walker note that if it is paid off, the Town is still in good shape with the fund balance, as opposed to other localities. The Mayor noted that paying it off will drop the 25 to 26 months, somewhat, that the Town can operate now without additional revenue. Council Member Cundiff noted that paying off the debt will still leave a balance of about \$5 million. The Town Manager advised that it is possible that this decision can trigger the State Code requirement of a public hearing given the size of the budget change. This will need to be determined. The Mayor advised that what he looks at is that Council has a staff recommendation, and this is what staff is paid to do. The Finance Director and her staff always do a good job in giving the best alternatives to choose from. The Town Manager advised that in running the numbers, the apparent break-even point is a return on investment of approximately 3.25 percent. If Council believes the recent down turn is indicative of a long term trend, then the right call is to use assets and pay it off. If Council believes the long term is possibly inflationary and the Town can get a higher return on the money then the right approach is to keep the bond and keep the cash. The Mayor questioned the Town Attorney that if the motion is passed it may not be valid because a public hearing is needed, with the Town Attorney advising he will need to verify this with the code book if Council wishes to hold off on the vote. His belief is that if the budget is changed by more than one percent, there must be a public hearing to approve. The Mayor advised the motion on the floor would be held until the Town Attorney could report back with his findings.

(3) *Town of Rocky Mount Supplemental Appropriation Resolution for the Fiscal Year Ending June 30, 2011 Regarding Meter Reading Equipment*

The Town Manager gave the following report:

- The Finance Director reported earlier this month that the handheld unit used to read the touch-read meters and to key in the data from the non-touch-read

meters has quit working.

- Staff has looked at options for replacement and the Finance Director has put together a proposal so that the unit can be replaced in time to continue reading for the March billing cycle.

The Mayor noted that the Finance Director's proposal is to trade in the current unit and to purchase a second unit.

Council Member Greer questioned the age of the current units with the Mayor and Finance Director advising approximately ten years.

The Mayor entertained a motion:

- Motion was made by Council Member Greer to approve Option Two of the Finance Director's proposal and covered in the resolution which is to trade in the current hand-held and purchase a second meter-reading set, new, both with radio-read technology and capable of functioning as a touch-read, at a cost of \$10,278, with motion on the floor being seconded by Council Member Cundiff. There being no discussion, let the record show that the motion on the floor passed unanimously by those present.

NEW BUSINESS

(1) *Request of Council Member Robert L. Moyer*

The Mayor noted that this agenda item is for the review and consideration of Council Member Moyer's request that he be allowed to resign from serving on the Community Partnership for Revitalization (CPR) Board.

The Town Manager advised that Council could choose to appoint an alternate representative or could choose to go without representation for a period.

The Mayor asked if any member of Council was interested in serving on the CPR Board in place of Council Member Moyer. It was noted that the Board meets on the second Tuesday of the month, usually at 5:30 p.m.

The Mayor advised that he will take on the responsibility until someone else is found, and that Council Member Moyer is relieved.

(2) *Town of Rocky Mount Supplemental Appropriation Resolution for Fiscal year Ending June 30, 2011 Regarding Waste Water Treatment Department*

The Town Manager delivered the following report:

- The Waste Water Treatment Plant (WWTP) Superintendent indicated during the November retreat that he believes a structure over the ultraviolet treatment ditch at the plant will prevent damage and harm to the equipment he uses there.
- He had intended, in the long run, to ask for funds to construct the building.
- Council Member Cundiff, during a public utilities discussion, suggested that this is perhaps something the Town could do in-house this year, using some of the utility fund contingency.
- The WWTP Superintendent and Public Works Director collaborated on a working estimate, and it is their consensus that \$6,500 would allow the Town to use in-house staff to begin the construction of a shelter over the ultraviolet equipment. This can be initiated this spring rather than waiting until next year.
- The Finance Director has drafted a resolution taking funds out of the utility contingency and appropriating it so the project can be started.

Council Member Cundiff noted that this past year, the Town suffered about \$11,000 in damages due to lightening, with the WWTP Superintendent advising that it varies from year to year, with this past year being around \$6,000, and that there is no guarantee this will correct the problem.

- Motion was made by Council Member Cundiff to approve the resolution, 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.

COMMITTEE REPORTS

The Mayor opened the floor to discussion regarding review and consideration of the Town's Public Utilities Committee recommendation regarding allowing out-of-town development to connect to Town of Rocky Mount utilities.

The Town Manager gave the following report:

- This item was carried over from the last Council meeting. The Utilities Committee met on January 4 to consider a request of Planners and Resource Services to connect a proposed senior living facility, a proposed 44-unit housing complex which will be funded by HUD, to Town utilities.
- There is some history with the request, in that this unit will be constructed on land currently owned by Mr. Bowie.

- Mr. Bowie previously obtained Town Council's permission to connect a second phase of Rocky Mountain Highlands to utilities.
- Since a principal of Planners and Resource Services could not attend the meeting, Council tabled this until tonight.
- The committee met again last week. A chief concern of the committee was that extending Town utilities into this corridor could potentially exacerbate an already difficult transportation situation.
- Of chief interest was finding out when Virginia Department of Transportation (VDOT) would have their proposed improvements to the flooding issue at Diamond Avenue in place and what other mechanisms could be put in place to allow emergency vehicle access to the area.
- VDOT has given a timeframe of the end of summer to have their product in place. Mr. Handy, with VDOT, has reported that all of the work he needs to do is in place to replace the two culverts with larger box culverts on the side street that causes the majority of the flooding. The Town will move a utility line that is in VDOT's way, and the Town will use some of its resources for ditch work so this will be a joint project. Mr. Handy believes that all of the funding is in place and he is simply waiting for a green light. Unfortunately, the presence of the Roanoke Log Perch in the stream means that he cannot do the work until after the spawning season in mid-summer. The culvert replacement will probably be done in August, and in VDOT's opinion, this will solve the flooding issue.
- The other item that came about from the meeting last week was a potential emergency access corridor and there are some representatives here from Planner and Resource Services that can speak to this.

Brett Massey, of 3335 Misty Hollow Court, Bran, NC, and a representative of Planners and Resource Services came forward to address Council regarding the development. The development is funded through HUD Section 202 to build affordable housing for elderly seniors, ages 62 and older. This is not assisted care, but rather giving elderly folks a good place to live. It will be one-story units with a cluster of six buildings per unit, in a campus-style setting, with a 1500 square feet community building that can be used by the local office on aging. Five-percent of the units must meet Americans with Disabilities Act (ADA) requirements. Traffic will be a bare minimum. Some of the positive things about this development are: (1) it will allow them to tie into water and sewer for Rocky Mount which will generate revenue for the Town; (2) its close proximity to the Town will give its residents a place to shop; (3) it will bring affordable housing to the residents of Rocky Mount and Franklin County. There is a great need here. The only other facility in Town has a waiting list of seven years. One of the biggest concerns with this is that when the funding is awarded, there is 18 months to go to closing, and within that timeframe, all

of the issues must be resolved, plans approved, and all the legal issues resolved. If he can get a decision on this, then it will greatly help with the development of the project. The other night, he met with the utility board, and they expressed their concerns. He feels like the resolution of VDOT and the bridge will help with the flooding issues, but then there is the question of the train track that must be crossed and what if the train breaks down, and how will emergency vehicles get to the property. They are proposing on their property, and along Mr. Bowie's parcel, to grant an emergency ingress and egress easement, a gravel road that enters the site with landscape tiles and turned down curb to the parking lot.

The Mayor questioned, at full capacity, how many people will be in the development, considering two people per unit. Mr. Massey advised that there are 44 units and they expect between 40 and 65 people, noting that most of the units are single persons, but there could be as many as 88 if there are two per unit.

Dee Osbourne of 320 Chestnut Street, Vinton, VA came forward to address Council, stating that she is currently a site manager of one of these complexes in Vinton. Her complex has 73 units, which is double the size of the one proposed here tonight. At full capacity, she has three married couples. Regarding traffic, about half of the residents drive. As far as emergency crews, there is generally no more emergency traffic in the neighborhood than in the average neighborhood. These are active senior citizens that come and go constantly. They have community functions and other meetings. The need for senior housing is large. This is a maintenance free complex, with 24-hour maintenance on site, snow removal, and no yard work.

Mike Bowie of 4052 Southmont Drive, Roanoke, VA came forward to address Council, with a presentation board showing the conceptual development of the property. He advised that he feels like he is a part of Rocky Mount, as he lived in Rocky Mount for 17 years, and some are aware of the project he built many years ago in the Needmore area. Phase I was 23 home sites and Phase II was 40 home sites, and Phase II is now the actual project that is being proposed this evening for water and sewer connections. In the original proposal he was granted permission for water and sewer for 40 home sites, and he went through the Franklin County approval process. Half of the project is in the Town and half is in the County. The reason why he did not start Phase II first was because of the approval process, as it took over two years to get the project through. It is approved and he could start tomorrow if he wanted to, but with the marketplace the way it is, it doesn't make sense, especially since Phase I is not sold out. The project that Mr. Massey is proposing is a good project for the community, and the folks living there will be spending money in the Town.

Robert Prom of 226 Magnolia Lane, Callaway, VA came forward to address Council. He is familiar with the site and was also the site superintendent for the general contractor at the Vinton location, as well as the 50-unit site in Bedford. He has worked with Brett Massey for two years. Not only will this create a nice facility in the community, it will also create some jobs here in the construction field, from grading to landscaping. The maintenance of this project will also be an ongoing issue and there will be an opportunity to sustain some jobs in the community. This is a positive project for the community.

Clyde Perdue of Taliaferro Street, Rocky Mount, VA, and representing Mr. Bowie came forward to speak, stating that it was pointed out by the Town Manager that this is not a zoning issue, it is a utility matter. It is nice that this project will bring jobs and is a quality project, and is on the skirts of Rocky Mount. It is not an assisted living facility, but a community that will be coming to Rocky Mount to shop. On the utility side, in 1994 the Town extended its wastewater treatment and water/sewer, and amended the Comprehensive Plan that one of the purposes was to expand outside of Rocky Mount for revenue purposes and also to help pay for the expansion. Mr. Bowie got this expansion in 2005, but that project was not done, and he is here now to seek re-tap for this project. The two issues that came up before the utility committee were the bridge, which has been resolved, and the emergency exit. He noted that it is important to understand this exit will not be just for this area, but for the whole community.

The Mayor addressed Council Member Cundiff, asking for the committee's recommendation. Council Member Cundiff advised that after discussing this emergency access easement, along with VDOT's letter regarding its intention to take care of the flooding issue, the committee had no problem with extending the utilities to this site.

The Mayor questioned the Town Manager as to whether there had been any discussion regarding giving the people in that area another way in and out. This is a proposed emergency exit which can be used during an emergency, but right now there is just one way in and out, and they are looking at adding 40 to 60 more people there. The Town Manager advised that he has had ongoing discussions with both VDOT and the County, though the Town is a junior player in these discussions and has tried to be a facilitator, if nothing else. He believes VDOT's position is clear, in that the amount of people there mirrors a lot of other places in Franklin County with only one way in and out. He does not think that the issue will surface on VDOT's agenda anytime soon, given its load of statewide transportation projects. The Mayor noted that the problem is when the train stops there and ingress/egress is stopped.

The Town Manager advised his thought is that if the Town can start with an emergency avenue in the event of a critical situation, the Town can take this opportunity to put some things on the table to keep the dialogue moving. This is not a perfect solution, but it is the best way the parts fit together now. There is one property owner in the County that will have to be worked with in order to complete the emergency easement. He has made two attempts to contact her to talk through the process, and if it is Council's wish then he will continue to follow through.

The Town Manager also noted that if it is Council's wish to allow this, staff has recommended that the developer comply with some additional conditions: (1) The development should be built to Town Code for subdivisions so that it has the look and feel of a Town project, potentially including roll-top curb and gutter, landscaping that meets Town requirements, and road widths that meet Town requirements; (2) The lots retained by Mr. Bowie should be built to the Town's R1 zoning standard, so that as a municipal growth area is created, the area is ready-made to Town standards; (3) In the past there have been issues with developments that are intended but then slow down, so a condition of the extension should be that all utility connections contemplated by this development and the orphan lots be paid within two years so that this is not a long return on investment for the Town.

The Mayor asked the developer if these conditions will be a concern, with Mr. Massey advising that the infrastructure will be installed through the funding of the project. All the water and sewer lines will be run without expense to the Town. Before closing, the building contractor must get the tap fees, building permits, etc. and these are put into funding at the initial closing of the project. The tap fees will be paid before the project goes to construction. In regards to the plan approval, curbing, engineering, etc., this will be addressed through the site plan.

Mr. Bowie asked to comment again. Referencing his presentation board, he clarified that Mr. Massey's project encompasses about ten acres, or half of his property, and this is what Mr. Massey will be purchasing. He noted that the Town Manager asked that Mr. Massey be required to pay tap fees, and hook-ups and regulations on what can be built on the remaining lots, and he respectfully disagrees with this because a good portion of the lots are undevelopable as there is no access to it. The Mayor questioned why there are structures shown on the lots if they are undevelopable, with Mr. Bowie advising that the map shown is from the originally proposed development from seven years ago with 40 home sites, and clarifying that what is proposed now is 44 apartments, which will have considerably less impact on the road. There will be lots that can't be developed. Ten acres will encompass this parcel and it does not seem right to impose tap fees for lots that will have to be

redesigned. This new purchase totally throws out the 40 lots of Phase II. It will have to go back through the approval process.

The Mayor clarified with Mr. Bowie that in the future, if he comes back to develop those lots, he would be willing to pay the tap fees then, with Mr. Bowie advising he would.

The Town Manager clarified that staff's recommendation is solely for the lots specifically listed that wanted to be retained, lots 1 – 7, and 38 - 40, not any that were landlocked or orphaned. What he received indicated that these lots were ready to be subdivided at this time, but this could be a misinterpretation. Mr. Bowie clarified that right now he does not have right-of-way across Mr. Massey's portion of the property, and this is a misinterpretation, but also advised that if and when he builds on these lots, he agrees to build them to Town standards.

The Mayor called for any questions for Mr. Perdue, Mr. Massey, and Mr. Bowie.

Dee Shoemaker of 25 Old Furnace Road, Rocky Mount, VA came forward questioning if the roads inside the facility would be built to state specifications, with Mr. Massey confirming that they would. She also questioned if a garage will be included with each unit, with Mr. Massey confirming that the budget is tight at \$5.3 million and that all of the money is allocated and there is no money for garages.

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

- Noting that he believes the developer has addressed Council's concerns, motion was made by Council Member Moyer to approve the request, with motion on the floor being seconded by Council Member Cundiff. There being no further discussion, let the record show that the motion on the floor passed unanimously by those present.

The Town Manager advised the Mayor that the Town Attorney is still researching the previously discussed issue regarding options for **Franklin Heights Subdivision Utility Bonds**, and suggested that this discussion be continued after the closed session. In light of this, the Mayor asked Council Member Greer if his motion could be withdrawn until after the Town Attorney can report back, with Council Member Greer withdrawing the motion.

OTHER MATTERS, CONCERNS, & RISE 'N SHINE APPEARANCES

The Town Manager confirmed that he appeared on Rise 'N Shine the previous Monday morning.

Let the record show there were no referrals for Planning Commission.

CLOSED MEETING ITEMS

At 8:20 p.m., motion was made by Vice Mayor Walker to go into *Closed Meeting*, seconded by Council Member Greer, and carried unanimously by those present to discuss the following:

- Section 2.2-3711(A).3 – Discussion or consideration of the 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 (western portion of Town corporate limits for Public Works Department use).
- 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 matter requiring the provision of legal advice by such 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 (pending or potential litigation stemming from utility services).

At 9:15 p.m., motion was made by Vice Mayor Walker 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 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 Vice Mayor Walker certifying that: (1) only public business matters lawfully exempted from open meeting requirements under this chapter were 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 considered, with motion on the floor being seconded by Council Member Greer. The Mayor swore to adopt the motion on the floor by Vice Mayor Walker that this was all that was discussed as defined in Section 2.2-3412 of the Code of Virginia. Voting yes were Vice Mayor Gregory B. Walker and Council Members Bobby M. Cundiff, Jerry W. Greer, Sr., P. Ann Love, and Robert L. Moyer.

The Mayor reported that no action was taken during the *Closed Meeting*.

**OLD BUSINESS – Options for Franklin Heights Subdivision Utility Bonds
(continued)**

The Town Attorney reported back to Council regarding the matter he had been researching in reference to procedures required for amending the budget should Council choose to pay off the utility bonds. Let the record show that Council directed staff to proceed with scheduling a public hearing in reference to the Franklin Heights Subdivision Utility Bonds.

ADJOURNMENT

At 9:21 p.m., motion was made by Council Member Cundiff to adjourn, seconded by Council Member Love, and carried unanimously by those present.

Steven C. Angle, Mayor

ATTEST:

Stacey B. Sink, Deputy Clerk

/sbs