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**Roanoke Rapids City Council**

**February 18, 2014**

The regular meeting of the City Council of the City of Roanoke Rapids was held on the above date at 7:00 p.m. at the Lloyd Andrews City Meeting Hall.

 Emery G. Doughtie, Mayor

 Carl Ferebee, Mayor Pro Tem

 Ernest C. Bobbitt)

 Suetta S. Scarbrough)

 Carol H. Cowen)

 Wayne Smith)

 Joseph Scherer, MPA, MS, City Manager

 Gilbert Chichester, City Attorney

 Kathy Kearney, Deputy City Clerk/Human Resources Manager

 MeLinda Hite, Finance Director

 Tommy Hathaway, Police Chief

 John Simeon, Parks & Recreation Director

 Larry Chalker, Public Works Director

 Kelly Lasky, Planning & Development Director

 Stacy Coggins, Fire Chief

 Christina Caudle, Main Street/Development Director

 Lisa B. Vincent, MMC, City Clerk

Mayor Doughtie called the meeting to order and opened the meeting with prayer.

With no one indicating a conflict of interest with any of the items on the agenda, motion was made by ­­­­­­­­­­­Mayor Pro Tem Ferebee, seconded by Councilwoman Scarbrough and unanimously carried to adopt the business agenda for February 18, 2014.

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Mayor Doughtie commented on the great efforts of City employees to keep the community safe during the recent snow events. He stated he received a lot of good compliments about our City employees and the preventive steps that were taken. Mayor Doughtie called on Public Works Director Chalker to talk about the storms.

Public Works Director Chalker thanked everyone for supporting the Public Works Department. He stated they opened the Emergency Operations Center (EOC) because of the threat of ice but fortunately we did not need it. He praised his department and Street Superintendent Allen Mitchell who is basically our “snowman”. He stated he received a lot of praise and compliments but it was the employees that did the work, and they deserve the credit. Public Works Director Chalker thanked the other departments for their help, and also thanked the Mayor and Council members for their support.

Mr. Richard M. Odom of 930 Lonnie B. Green Road, Roanoke Rapids, NC stated he is here to address concerns about the restrictions on concealed carry permit holders. He stated the City needs to check the signs that restrict firearms. Mr. Odom stated they need to be changed.

Mr. Jimmy Storey of 91 Harper Drive, Roanoke Rapids, NC stated he is President of the Northeastern Action Wildlife Club and is opposed to the ordinance restrictions. He stated anyone with a concealed carry permit works hard to get that permit. He stated they are not criminals. Mr. Storey stated putting up signs stating it is unlawful to carry concealed guns at a City facility will only encourage criminals to bring their own firearms. He stated if you put signs up, criminals will think nobody has a gun. Mr. Storey stated law-abiding citizens do not get permits to commit crimes. He stated they get them to protect their families. He stated statistics show that only one percent of people with concealed carry permits commit crimes. He stated the City of Roanoke Rapids has the option to pass or not pass this ordinance.

*12 attendees in the audience stood in support of Mr. Storey’s comments.*

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Mr. Gene Wright of 427 Rapids Street, Roanoke Rapids, NC stated his wife and a friend have been involved in three encounters while walking in a City park during broad daylight where they were harassed, intimidated and touched. He stated it seems like the City is making an effort to take away our rights. He stated both he and his wife have concealed carry permits. Mr. Wright stated it may shock people to hear this but guns do not kill people—people do. He asked that the City Council not tamper with concealed carry permits. He stated we do not need restrictions.

Motion was made by Councilwoman Cowen, seconded by Councilman Bobbitt and unanimously carried to approve the February 4, 2014 Council Minutes.

City Manager Scherer stated this item was tabled at the last meeting for further clarification regarding the classification of the Roanoke Canal Trail under the new State Statutes regarding the carrying of concealed handguns. He stated since that time, the Roanoke Canal Trail has been removed from the list of facilities under the proposed Section 131.05 (A). City Manager Scherer stated the amendments to Chapter 131 of the Roanoke Rapids Code of Ordinances are necessary to reflect the changes in and to conform to the concealed handgun statute.

City Attorney Chichester stated the proposed changes to the City’s ordinance to be in compliance with new State laws actually relax the City’s previous ordinance which banned concealed handguns on any City property or park all the time. He stated these proposed changes would allow permit holders to carry handguns in and on 20 facilities so long as an organized event is not going on at the time. City Attorney Chichester pointed out that the statute states that municipalities have to prohibit concealed handguns during organized events.

Councilman Bobbitt asked if the punishment would be worse since the law change, if someone had a concealed carry handgun on a property that has a sign prohibiting concealed weapons.

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City Attorney Chichester stated in some locations such as school property and penal institutions there would be more severe punishment.

*Mayor Doughtie recognized Representative Michael Wray in the audience.*

City Manager Scherer indicated that during organized events, concealed handguns must be left in vehicles.

Mayor Doughtie stated we do not want citizens to do anything detrimental to their safety. He stated it sounds like we are relaxing our ordinance.

Councilman Smith asked if people can walk at the parks with a concealed carry handgun if there is no organized activity going on.

City Manager Scherer stated yes.

Councilwoman Scarbrough asked the Mayor to read for those in attendance the list of sites where permit holders are allowed to carry handguns as long as an organized event is not going on.

Mayor Doughtie read the following list included in the proposed ordinance:

 (1) T. J. Davis Recreation Center

 (2) Aquatics Center and Outdoor Pools

 (3) Chaloner Recreation Center and Outdoor Pool

 (4) Jo Story Senior Center

 (5) Roanoke Rapids Public Library

 (6) Kirkwood Adams Community Center

 (7) Roanoke Canal Museum

 (8) Lloyd Andrews City Meeting Hall

 (9) Smith Park

 (10) Long Park

 (11) Chockoyotte Park

 (12) Rochelle Park

 (13) Emry Park

 (14) C.W. Davis Park

 (15) Melody Park

 (16) Edward George Park

 (17) Martin Luther King, Jr. Park

 (18) Ledgerwood Athletic Complex

 (19) Wheeler Park

 (20) Southgate Park

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Mayor Doughtie asked what would happen if a motion dies for lack of a second. He asked if we would take other action.

City Attorney Chichester explained that if a motion dies for lack of a second, the ban is on all City property which is currently what is in place.

Councilman Smith stated this ordinance is better than banning guns everywhere all the time. He stated it gives citizens the right to carry a handgun or lock it in their vehicle.

Motion was made by Councilman Smith, seconded by Councilwoman Cowen and unanimously carried to adopt the following ordinance:

**AMENDMENTS TO THE ROANOKE RAPIDS CODE OF ORDINANCES**

**REGARDING THE**

**REGULATION OF CONCEALED HANDGUNS AND**

**THE CARRY AND DISPLAY OF FIREARMS AND WEAPONS**

 **WHEREAS**, the North Carolina General Assembly has again amended the General Statutes of the State that establish limitations on municipal regulations related to the carrying of concealed handguns; and

 **WHEREAS**, changes to North Carolina General Statute 14-415.23 of the concealed handgun laws has required the City to fully review its regulation of concealed handguns due to changes in the Statute regarding the definitions of areas of local government property wherein the concealed carry of handguns can be regulated; and

 **WHEREAS**, the City Council has determined that it is in the best interest of the City of Roanoke Rapids to modify its Code of Ordinances to reflect the changes in and to conform to the concealed handgun statute.

 **NOW, THEREFORE, BE IT HEREBY ORDAINED** by the City Council of the City of Roanoke Rapids that the Roanoke Rapids Code of Ordinances is hereby amended to add the following new sections to **Chapter 131: Offenses Against Public Peace and Safety**:

**§ 131.05 CONCEALED HANDGUNS PROHIBITED IN RECREATIONAL FACILITIES; POSTING REQUIRED.**

 (A) It shall be unlawful to carry a concealed handgun on or in Parks and Recreational facilities and appurtenant facilities during an organized event scheduled with the City of Roanoke Rapids. Parks and Recreation facilities and appurtenant facilities including, but not limited to, located in the following City parks and facilities:

 (1) T. J. Davis Recreation Center

 (2) Aquatics Center and Outdoor Pools

 (3) Chaloner Recreation Center and Outdoor Pool

 (4) Jo Story Senior Center

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 (5) Roanoke Rapids Public Library

 (6) Kirkwood Adams Community Center

 (7) Roanoke Canal Museum

 (8) Lloyd Andrews City Meeting Hall

 (9) Smith Park

 (10) Long Park

 (11) Chockoyotte Park

 (12) Rochelle Park

 (13) Emry Park

 (14) C.W. Davis Park

 (15) Melody Park

 (16) Edward George Park

 (17) Martin Luther King, Jr. Park

 (18) Ledgerwood Athletic Complex

 (19) Wheeler Park

 (20) Southgate Park

 (B) The Recreation Director or his designee is hereby authorized and instructed to post conspicuous signage at appropriate locations on the recreational facilities described in subsection (A) indicating that carrying a firearm, including a handgun carried under the authority of a lawful concealed handgun permit, is prohibited.

 (C) Signs on buildings shall be visibly posted on the exterior of each entrance by which the general public can access the building. The Recreation Director or his designee shall exercise discretion in determining the number and appropriate location of signs to be placed on or within appurtenant premises and recreational facilities.

**§ 131.06 POSSESSION OR DISPLAY OF FIREARMS REGULATED.**

 (A) It shall be unlawful for any person to carry or possess a concealed handgun in any city-owned or operated building, including any appurtenant premises such as a parking lot.

 (B) In addition, it shall be unlawful for any person to carry, display or possess, whether concealed or carried openly, any handgun, rifle, pistol, or other firearm in any city-owned building, including any appurtenant premises such as a parking lot, and including public parks or recreation areas. Nothing in this subsection shall prohibit a person from storing a firearm within a locked motor vehicle while the vehicle is on these grounds or areas. Nothing in this section shall prohibit the lawful carrying of a concealed handgun in public parks or recreation areas not listed in Section 131.05 (A).

 **BE IT FURTHER ORDAINED** that this Ordinance shall become effective with the posting of the appropriate signage.

 **ADOPTED** this 18th day of February, 2014.

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 Emery G. Doughtie, Mayor

ATTEST:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Lisa B. Vincent, City Clerk

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Councilman Bobbitt requested Representative Wray recommend to his fellow General Assembly members that they consider changing the law to increase the punishment for crimes committed where signs are posted.

Planning & Development Director Lasky reviewed the following staff report with Council:

**MEMORANDUM**

TO: Joseph Scherer, City Manager

FROM: Kelly Lasky, Planning & Development Director/s/

DATE: February 3, 2014

**RE: Court Order to Issue a Special Use Permit to Blair Investors, LLC to Construct a 120-Foot Wireless Communications Tower Located at 501 Jackson Street**

**Background/Timeline of Events**

***Public Hearing:*** During its August 14, 2012 meeting, City Council conducted a public hearing for consideration of a Special Use Permit (SUP) request from Blair Investors, LLC to erect a 120-foot monopole wireless communication tower on industrial zoned property, located at 501 Jackson Street within the city.  The public hearing was conducted, as required, and closed.

***City Council Denies Application for Special Use Permit:*** On October 9, 2012, City Council passed a motion to deny the Special Use Permit application. By motion and a vote, the City Council found the following statements not to be true; if completed as proposed, the development, more probably than not: w*ill not materially endanger the public health or safety* and *will be in harmony with the area in which it is to be located*.

***Applicant Appeals City Council’s Decision to Superior Court:*** Blair Investors, LLC (SUP applicant) filed a petition for judicial review by the Superior Court of Halifax County by proceedings in the nature of certiorari. On December 20, 2012, Superior Court Judge Alma Hinton reviewed the record to determine if the evidence of record supported the Council’s action in denying the permit. On February 25, 2013, Judge Alma Hinton affirmed City Council’s denial of the application for a Special Use Permit.

***Applicant Appeals Superior Court’s Decision to NC Court of Appeals:*** Blair Investors, LLC filed an appeal with the North Carolina Court of Appeals from the Halifax County Superior Court Order by Judge Alma Hinton stating that the City Council’s denial of the application for a Special Use Permit was not supported by competent, material and substantial evidence and that the Superior Court erred by affirming the City Council’s decision.

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***NC Court of Appeals REVERSES Decisions and Orders Issuance of Permit:*** On November 4, 2013, the NC Court of Appeals reviewed the case and concluded that the Halifax County Superior Court erred and that its order should be reversed and remanded back to Superior Court for remand to the City Council with instructions to grant the special use permit.

***Superior Court Orders City to Issue Special Use Permit:*** On January 28, 2014, Halifax County Superior Court Judge Alma Hinton ordered Roanoke Rapids City Council to grant the application for a Special Use Permit.

**Requested Action, Motion & Vote**

**In compliance with the January 28, 2014 Order of the Halifax County Superior Court to Roanoke Rapids City Council, motion to approve the application for a Special Use Permit by Blair Investors, LLC for the construction of a wireless communications facility at 501 Jackson St. as proposed in the complete proposal dated July 30, 2012.**

Mayor Doughtie stated he would like to refer to the legal counsel before the motion.

City Attorney Chichester stated Ms. Lasky reviewed the process correctly. He stated after the City prevailed in the lower court, David King appealed the decision to the NC Court of Appeals. He stated he argued the case and it was a very close case but the Court of Appeals disagreed that the City had enough evidence to deny the permit. City Attorney Chichester stated Judge Hinton did not have any choice. He stated we have done everything we could do. He stated we pursued this through the courts and we now have an obligation to abide by the court’s decision.

Councilwoman Scarbrough stated she wants to read in the media that this was the court’s decision. She stated we might as well be cardboard cutouts up here because the decision has already been handed down. Councilwoman Scarbrough stated she would rather abstain than vote yes or no.

Councilman Bobbitt asked why we have to vote if this is a court order.

City Attorney Chichester explained that the Council has to vote because the court cannot issue the permit. He stated at the end of the day, we are a nation of laws and the court instructed the City Council to vote to grant the permit.

Councilman Bobbitt stated it sounds like the court is going over the heads of the City Council.

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Mayor Doughtie stated the Council is acting on a higher authority’s decision. He stated everyone needs to make a decision on legality rather than what is right in their opinion. He stated any abstentions are considered as “yes” votes.

In compliance with the January 28, 2014 Order of the Halifax County Superior Court to the Roanoke Rapids City Council, motion was made by Mayor Pro Tem Ferebee and seconded by Councilman Smith to approve an application for a Special Use Permit by Blair Investors, LLC for the construction of a wireless communications tower at 501 Jackson Street as proposed in the complete proposal dated July 30, 2012.

Upon being put to a vote, Mayor Pro Tem Ferebee and Councilman Smith voted in favor of the motion. Councilwoman Scarbrough, Councilwoman Cowen and Councilman Bobbitt abstained from voting.

Mayor Doughtie clarified with City Attorney Chichester that abstaining is the same as a yes vote.

City Attorney Chichester explained that all Council members have a duty to vote unless there is a conflict of interest. He stated under Robert’s Rules of Order, an abstention is counted as a yes vote.

Mayor Doughtie declared the foregoing motion carried unanimously.

City Manager Scherer commended the Public Works Department on a great job during the recent snow storms.

City Manager Scherer introduced Ms. Christina Caudle, the City’s new Main Street/Development Director. He stated Ms. Caudle’s responsibilities will include recruiting more businesses and assisting in economic development. He reported that she attended the RABA meeting today and they are working on some upcoming promotional events. He stated they will also be submitting a Main Street progress report to the State office.

City Manager Scherer reported that Police Captain Andy Jackson is in the hospital with double pneumonia, and we wish him a speedy recovery.

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Finance Director Hite reported that as we close the books for January 31, 2014, YTD revenues are $8,930,638.45 (represents 58.0% of budgeted revenues) and YTD expenses are $9,439,466.17 (represents 62.0% of budgeted expenses). She reported that expenditures exceed revenues by $508,827.72.

Finance Director Hite reported that capital projects continue to be addressed under the Public Works Department. She stated these projects were proposed as being high priority.

Finance Director Hite reported that sales and use tax receipts YTD are $753,947.12 (represents 37.35% of budgeted revenues). She stated this revenue source remains flat for the third consecutive month.

Finance Director Hite reported that 93% of Ad Valorem Taxes have been collected as of today.

Mayor Doughtie asked if, since we added to our Fund Balance last year, we would be able to say that we stayed within budget this year.

Finance Director Hite stated we have appropriated $1.3 million of Undesignated Fund Balance. She stated we could stay at 25% and still have $400,000 to comfortably use.

 Police Chief Hathaway reported that we have 14 participants in the Citizens Police Academy and Councilwoman Scarbrough is the Class President.

 Police Chief Hathaway reported on fundraising efforts to benefit the upcoming Special Olympics. He stated the department will have t-shirts for sale, and 86 cents of every dollar goes back to North Carolina. Chief Hathaway reported that he participated in the Polar Plunge at Key Fitness and also reported on an upcoming event to be held on May 3rd at New Day Fitness.

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 Planning & Development Director Lasky reported that the department has approved the plans for Sheetz and they are moving forward. She stated Family Dollar will be increasing the size of the store at 1041 E. 10th Street.

 Planning & Development Director Lasky reported that the next Comprehensive Land Use/Health Care Plan Steering Committee meeting will be held on Tuesday, February 25 at 5:30 p.m. at City Hall. She stated the plan should be ready for City Council review in April or May.

 Parks & Recreation Director Simeon reported on an incident that occurred this past Saturday evening when a jeep went down the embankment of the Roanoke Canal Trail and caused an estimated $3,000 in damages. He reported that there has been other damage that the department is trying to get repaired before the Canal Half Marathon on March 8. He reported that last year, we had folks from 12 states and three countries compete.

 Parks & Recreation Director Simeon reported that the carpet has been replaced in the children’s section of the Library, and the new women’s lockers have been installed at the Aquatic Center.

 Parks & Recreation Director Simeon reported that he attended a committee meeting at the Department of Corrections in Tillery. He stated this committee raises funds for DOC employees and inmate programs.

 Councilman Smith stated he received comments on the good job John Simeon did on the Canal Trail on Saturday following the incident with the jeep.

 City Manager Scherer explained that 14 to 16 inmates are used daily by the City. He stated John Simeon and Larry Chalker serve on a prison board to keep good communication between the two entities. He stated the inmate program has been very beneficial to the City.

 Fire Chief Coggins thanked the Public Works Department and Allen

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 Mitchell for helping to clean the ramps at both stations during the storms.

Fire Chief Coggins highlighted his report and reported on recent training.

 Public Works Director Chalker commented on his visit to the Correctional Facility at Tillery. He stated the dinner was very nice and their program, which is similar to the City’s Benevolent, Awards & Recognition Committee (BARC), is great.

 Public Works Director Chalker reported the following statistical information regarding the three snows that have fallen this winter: *A total of $22,800 was spent which included: $9,000 for the cost of materials, provisions and equipment; $12,200 for salt, which represents 117.44 tons used and $1,600 for 90 tons of sand.* Mr. Chalker indicated that they also spread 33,500 gallons of brine on the streets.

 Public Works Director Chalker reported that they recently posted 22 items for sale on the GovDeals website, and have sold three already. He stated to date, we have listed a total of 55 items and have collected $21,040.00.

 Human Resources Manager Kearney reported that we have hired one Police Officer, Ms. Linda Baker.

Mayor Doughtie thanked everyone for coming. He also thanked Mr. Storey with the Northeastern Action Wildlife Club for his thoughts. He stated the Council is committed to making a better community where people will want to visit and live. Mayor Doughtie stated it is very difficult to make a decision that is not pleasing to everyone. He stated citizens come to us with concerns and we are doing the best we can to make the City a better place.

Councilman Bobbitt welcomed the new Main Street/Development Director Christina Caudle and thanked Street Superintendent Allen Mitchell for his work

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with the snow removal.

Councilman Bobbitt explained that his reason for abstaining on the earlier issue was because there is nothing in the state law regulating emissions from cell towers.

There being no further business, motion was made by Councilman Bobbitt, seconded by Councilwoman Cowen and unanimously carried to adjourn.

 