**16701**

**Roanoke Rapids City Council**

**July 10, 2012**

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)

 Greg Lawson)

Carol H. Cowen)

 Edward A. Wyatt, Interim City Manager

 Lisa B. Vincent, MMC, City Clerk

 Gilbert Chichester, City Attorney

Mayor Doughtie called the meeting to order.

The Cadets from the Halifax Composite Squadron of the Civil Air Patrol gave the invocation, led the recitation of the Pledge of Allegiance and recited the Cadet Oath.

Mayor Doughtie thanked the Cadets and Officers of the Squadron for their participation in tonight’s Council meeting.

Mayor Doughtie recognized Lonnie Wood of Boy Scout Troop 146 who is working on his Citizenship in the Community Merit Badge.

**Adoption of Business Agenda**

Mayor Doughtie called Council’s attention to the Conflict of Interest statement in the agenda packet.

With no one indicating a conflict of interest with any of the items on the agenda, motion was made by Councilman Bobbitt, seconded by Councilwoman Cowen and unanimously carried to adopt the business agenda for July 10, 2012.

**Public Comment (Unscheduled): Jack Moore**

Mr. Jack Moore of 630 Park Avenue, Roanoke Rapids, NC stated he has some suggestions if the Roanoke Rapids Theatre is leased. He stated a $50,000 cash bond should be required for any damage done to the building. He stated the City should be able to inspect the building anytime it sees fit without prior announcement. Mr. Moore stated the fees for the electronic gaming machines should be raised to $5,000 per machine. He stated they will

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**Roanoke Rapids City Council**

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complain but they will pay as they will be making a lot of money. Mr. Moore stated the rental payments should be made by the first of the month. He stated the City got burnt on this the first time. He stated liquor should not be permitted because it would have to be allowed at all of these types of establishments. Mr. Moore stated smoking should not be allowed because of fire hazards with the carpet. He stated the hours of operation should not be changed, and children should not be allowed if mixed drinks are served. He asked what good would be served by allowing the consumption of mixed drinks. He stated these businesses have said this activity is not gambling but they have “pays instantly” signs on their front windows. Mr. Moore stated we should change our welcome signs to read “Welcome to Roanoke Rapids – the Little Las Vegas of the South”.

**Approval of Council Minutes**

Motion was made by Councilwoman Cowen, seconded by Councilwoman Scarbrough and unanimously carried to approve Council Minutes dated June 5, 2012 (Work Session); June 6, 2012 (Special Meeting); June 7, 2012 (Special Meeting); June 12, 2012 (Special Meeting); June 12, 2012 (Regular Meeting) and June 14, 2012 (Special Meeting).

**City Council Appointments: Appointment to Recreation Advisory Committee**

A ballot vote was taken and the Clerk announced that Wayne Smith received the unanimous vote for appointment to the Recreation Advisory Committee.

Motion was made by Councilman Lawson, seconded by Councilwoman Cowen and unanimously carried to appoint Wayne Smith to the Recreation Advisory Committee.

**Continuation of Public Hearing on Proposed Amendments to the Roanoke Rapids Land Use Ordinance Regulating Internet Cafes in the Entertainment Overlay District**

Planning & Development Director Lasky indicated that this is a continued public hearing on the proposed amendments to the Land Use Ordinance regulating internet cafes in the Entertainment Overlay District. Ms. Lasky reviewed with Council the following staff report that was included in the agenda packet for the July 3 work session:

June 26, 2012

TO: Mayor Doughtie and Members of City Council

FROM: Kelly T. Lasky, Director of Planning and Development/s/

REFERENCE: **Text Amendments to the Land Use Ordinance Regulating Internet Cafes in the Entertainment Overlay District**

**Background**

An overlay district is a regulatory tool that creates a special zoning district over an existing base zone, which identifies special provisions in addition to those in the underlying base zoning district. Special provisions may permit exceptions or less restrictive standards that are either added to or in lieu of the underlying zoning district.

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The Roanoke Rapids Entertainment Overlay District (EOD) is a special zoning district that allows the City to assure continued development opportunities for specific entertainment purposes. The EOD ensures development in a fashion that would preserve natural scenic beauty, and enhance trade, tourism, job creation, capital investment, and the general welfare. The EOD serves to protect health, safety and environmental quality for persons and property within and adjacent to areas specifically suited to development for commercial entertainment purposes. The EOD is used to define acceptable and appropriate use, space, and activity relationships between adjacent sites so that the area’s importance as a regional entertainment venue may be realized.

The EOD is an overlay zoning district to the B-4, Commercial Zoning District. It is primarily located east of the I-95 corridor and is locally referred to as the Carolina Crossroads area. The land use regulations applicable to the B-4 Commercial District (underlying zone) remain in effect except where superseded in the overlay zone requirements. Where there is a provision not expressed in the underlying zone, or where a provision hereof is in conflict with the underlying zone, the provision of the overlay zone is controlling.

**Proposed Amendments**

Staff has determined that electronic gaming operations or “internet cafes” are an entertainment venue land use that should be included in the Entertainment Overlay District. After further analysis of the current Land Use Ordinance, staff has determined that electronic gaming operations should be permitted by right as an accessory use to a principal land use.

The proposed amendments would allow electronic gaming operations as an accessory use to a performing arts and music theater. As an accessory use, electronic gaming operations may occupy a minor percentage of a building and operate in conjunction with a performing arts and music theater. This accessory use would be allowed by right, and property owners and gaming operators would not be required to obtain a conditional use permit.

The proposed amendments accomplish the following changes to the Land Use Ordinance:

* Defines “Arcade” and “Performing Arts and Music Theater”;
* Expands Accessory Uses to provide regulation of electronic gaming operations within the EOD by permitting electronic gaming operations as an accessory use to a performing arts and music theater;
* Limits the accessory use of electronic gaming operations to 10% of the theater building and requires that the gaming be limited to enclosed rooms or areas; **(Planning Board recommended amending this section**)
* Provides less restrictive standards for electronic gaming operations within the EOD such as hours of operation and alcoholic beverage control;
* Permits Accessory Uses by right in the EOD.

**Planning Board Recommendation**

The Roanoke Rapids Area Planning Board considered this amendment to the Land Use Ordinance at its regular meeting on June 21, 2012 and unanimously forwarded a favorable recommendation to City Council with the following recommended changes to the amended version of Section 151-150:

1. Increase the square footage from 10% to 15%
2. Delete requirement for gaming to be conducted in enclosed rooms
3. Delete subsection 3 that prohibits gaming machines from being located in the lobbies and hallways

The Roanoke Rapids Area Planning Board recommended the following changes to the proposed amendments to the Land Use Ordinance:

Section 151-150, Accessory Uses is ***AMENDED*** to add the following:

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**Roanoke Rapids City Council**

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***(g) Within the Entertainment Overlay District, electronic gaming operations are allowed as an accessory use to a performing arts and music theater, subject to the following conditions:***

***(1) The electronic gaming operation shall not occupy more than*** (~~10%~~)***15% of the total gross enclosed floor area of the performing arts and music theater building in which the electronic gaming operation is conducted as an accessory use.***

***(2) The accessory use electronic gaming operation must be*** ~~solely conducted in an area(s) enclosed by full floor to ceiling opaque walls and thereby~~***separated from the remaining areas of the performing arts and music theater.***

~~(3) Electronic gaming machines shall not be located in any general circulation areas of the performing arts and music theater such as lobbies and hallways.~~

**Staff Recommendation**

Discuss and consider hours of operation for Electronic Gaming Operations. Adopt the draft amendments to the City of Roanoke Rapids Land Use Ordinance regarding Electronic Gaming Operations as amended by the Roanoke Rapids Area Planning Board.

**Requested Action**

The City Council has several options regarding the Statement of Consistency and text amendment: (1) approval of the Statement of Consistency as submitted; (2) denial of the Statement of Consistency; or (3) table action concerning approval of the Statement of Consistency.

Following the previously detailed actions regarding the Statement of Consistency, the City Council has several options regarding the text amendment request: (1) approval of the request as submitted and/or with amendments; (2) approval of the request as submitted to include amendments proposed by the Planning Board and/or with amendments; (3) denial of the request as submitted; (4) table action concerning the request; (5) No further action is required by City Council if Statement of Consistency is not approved.

**Proposed Amendments**

ARTICLE II. BASIC DEFINITIONS AND INTERPRETATIONS

Section 151-15, Definitions of Basic Terms is ***AMENDED*** to **add** the following definitions:

***( ) Arcade. A place or facility where pinball, computer, or other similar electronic or mechanical games are played for amusement only. This shall not be construed so as to include bingo games, gambling devices, electronic gaming machines, or any devices prohibited by law.***

***( ) Theater, Performing Arts and Music. A structure having a minimum of 1,000 permanent seats used for dramatic, operatic, motion pictures, music, or other performance, for admission to which entrance money is received.***

ARTICLE X. PERMISSIBLE USES

Section 151-149, Table of Permissible Uses is ***AMENDED*** as follows:

The following Table of Permissible Uses should be read in close conjunction with the definitions of terms set forth in Section 151-15 and the other interpretative provisions set forth in this article. ***Uses permitted in the Entertainment Overlay District are identified in Section 151-363 and are supplemental to this section, District B-4.***

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Section 151-150, Accessory Uses is ***AMENDED*** to add the following:

***(g) Within the Entertainment Overlay District, electronic gaming operations are allowed as an accessory use to a performing arts and music theater, subject to the following conditions:***

***(1) The electronic gaming operation shall not occupy more than 10% of the total gross enclosed floor area of the performing arts and music theater building in which the electronic gaming operation is conducted as an accessory use.***

***(2) The accessory use electronic gaming operation must be solely conducted in an area(s) enclosed by full floor to ceiling opaque walls and thereby separated from the remaining areas of the performing arts and music theater.***

***(3) Electronic gaming machines shall not be located in any general circulation areas of the performing arts and music theater such as lobbies and hallways.***

ARTICLE XI. SUPPLEMENTARY USE REGULATIONS

Section 151-171, Electronic Gaming Operations, is ***AMENDED*** as follows:

The following regulations will apply to electronic gaming operations in all zoning districts, ***except the Entertainment Overlay District.***

(a) Hours of Operation: The business shall operate only between the hours of 8:00 a.m. and 12:00 a.m. (midnight). All gaming operations shall cease at 12:00 a.m.

(b) Location: The operation shall not be located closer than:

1. Five hundred (500) feet from any residence or residential zoning district;
2. One-thousand (1,000) feet from any church or other religious institution, day care center, public or private elementary school or secondary educational school, public

park or playground, public library, cemetery, video arcade, or motion picture theater which shows G- or PG-rated movies to the general public on a regular basis;

1. One-thousand (1,000) feet from any existing Electronic Gaming Operation, Tattoo and Body Piercing Establishment, or Adult and Sexually Oriented Business.

(4) Measurement of distance separation shall be in a straight line from the closest point of the buildings at which the ***electronic game operation*** is located.

(c) The maximum number of machines permitted at an electronic gaming operation shall be determined by City Council during the conditional use permit application process, utilizing criteria outlined in Section 151-60. In addition, the occupancy of each facility shall be determined using the regulations in the North Carolina Building Code, as amended.

(d) The machines/terminals must not be prohibited by State or Federal law and must have all applicable permits and licenses.

(e) No alcoholic beverages shall be served or consumed on the premises of electronic gaming operations.

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(f) The issuance of a conditional use permit to operate an electronic gaming operation by City Council does not grant the owner or operator of such facility perpetual property rights to operate this facility. The operation shall at all times be in compliance with any State or Federal law or regulations.

***Within the Entertainment Overlay District, the following regulations will apply:***

***(a) An electronic gaming operation may be conducted as an accessory use to a performing arts and music theater.***

***(b) Hours of Operation: The business shall operate only between the hours of \_7:00 a.m. and 2:30 a.m. All gaming operations shall cease at 2:30 a.m.***

***(c) Location: The operation shall not be located closer than:***

***(1) Five hundred (500) feet from any residence or residential zoning district;***

***(2) One-thousand (1,000) feet from any church or other religious institution, day care center, public or private elementary school or secondary educational school, public park or playground, public library, (~~cemetery~~,) video arcade, or motion picture theater which shows G- or PG-rated movies to the general public on a regular basis;***

***(3) One-thousand (1,000) feet from any existing Electronic Gaming Operation, Tattoo and Body Piercing Establishment, or Adult and Sexually Oriented Business.***

***(4) Measurement of distance separation shall be in a straight line from the closest point of the buildings at which the electronic gaming operation is located.***

***(d) The machines/terminals must not be prohibited by State or Federal law and must have all applicable permits and licenses.***

***(e) Alcoholic beverages may be sold by the principal use to which the electronic gaming operation is accessory. The principal use alcohol sales must be in an area of the principal use building which is distinctly separate and apart from the electronic gaming operation enclosed area(s). At all times, regulation of alcoholic beverages shall comply with North Carolina ABC laws.***

ARTICLE XXIV. OVERLAY DISTRICTS (ADOPTED MAY 24, 2005)

Section 151-362, Entertainment Overlay District Purpose and Intentis ***AMENDED*** as follows:

The Roanoke Rapids City Council finds that Roanoke Rapids is rich in natural scenic beauty within its planning jurisdiction. The City also strives to enhance the continued development of its commercial areas. The City Council finds the general welfare will be served by orderly development within an Entertainment Overlay District (EOD) in a fashion which would preserve natural scenic beauty, and enhance trade, tourism, job creation, capital investment, and the general welfare within defined commercially zoned areas within the City and its surrounding area. The Council therefore establishes these regulations designated herein as “Entertainment Overlay Districts” to further those objectives while encouraging the orderly development of land within the City. The establishment of Entertainment Overlay Districts will serve to protect health, safety and environmental quality for persons and property within and adjacent to areas specifically suited to development for commercial entertainment purposes. The provisions contained herein shall be used to define acceptable and appropriate use, space, and activity relationships between adjacent sites so that the area’s importance as a

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regional entertainment venue may be realized. ***The Entertainment Overlay District is unique within the Roanoke Rapids planning jurisdiction and allows uses not permitted in other zoning districts.***

**Section 151-363, Entertainment Overlay District** is ***AMENDED*** to add the following use to the Table of Permitted Uses in the Entertainment Overlay District under (8) Permitted Uses:

|  |  |  |  |
| --- | --- | --- | --- |
| Use | By Right | By Special Use Permit | By Conditional Use Permit |
| ***Accessory Uses***  | ***X*** |  |  |

Ms. Lasky stated after further review, the staff recommends extending the same opportunity to electronic gaming operations in other zones as is proposed in the Entertainment Overlay District. She reviewed with Council new recommended amendments to the proposed amendment that will provide the Entertainment Overlay District the right to conduct electronic gaming within a theater building and will amend the current ordinance to delete the existing conditional requirements for hours of operation and alcohol consumption and sales. She stated, if adopted, the hours of operation will not be regulated by the City and alcohol will be regulated by the State ABC Commission.

***Section 151-150 Accessory Uses, Subsection (g), item (2) to accept the Planning Board’s recommended amendment and to replace the term “remaining” with “auditorium”;***

***Section 151-150 Accessory Uses, Subsection (g), item (3) to accept the Planning Board’s recommendation to delete this amendment as proposed;***

***Section 151-171 Electronic Gaming Operations to delete Subsection (a) and Subsection (e) of the current ordinance;***

***Section 151-171 proposed amendments regulating Electronic Gaming Operations within the Entertainment Overlay District to delete Subsection (b) and Subsection (e);***

***Section 151-171 proposed amendments regulating Electronic Gaming Operations within the Entertainment Overlay District to add a subsection requiring that “the operation shall at all times be in compliance with any State or Federal laws or regulations”***

A public hearing having been advertised and proper notices having been given according to law, Mayor Doughtie re-opened the hearing for comments.

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Mr. William O. White, Jr. presented copies of a written statement which he read as follows:

*Mayor Doughtie and members of City Council, my name is William O. White, Jr., of the firm of Wellman, White & Wilson, PLLC, 644 Roanoke Avenue, Roanoke Rapids, NC. I am pleased to speak in favor of the amendments to the Land Use Ordinance as proposed by the Planning Board and by the public staff. As previously stated to you and to the Planning Board, we represent a newly created limited liability company that wishes to lease the Roanoke Rapids Theatre with an option to purchase. Not any of the principals of this limited liability company is local to Roanoke Rapids, Halifax County or North Carolina.*

*When the City decided to pursue the Theatre in 2005, at the request of the City and the Local Government Commission, I was involved heavily in the selection of the firm, Economics Research Associates, to prepare the feasibility study for the Theatre. The feasibility study, dated April 15,*

*2005, stated that the theatre would be a “market-viable attraction concept” provided that certain assumptions were met. The first assumption was as follows: “Key elements of the larger proposed development, including two hotels, at least 200,000 square feet of retail, and additional entertainment / amusement opportunities are operational by the time the Theatre is opened.” We all know the history since 2005. The economy suffered a serious down turn; the Theatre has not been successful; and, as a result, the City has attempted to operate a theatre that it never intended to manage.*

*If electronic games are permitted as an accessory use in the theatre, my client intends to negotiate in good faith, quickly with the City for an acceptable lease with an option to purchase. The availability of electronic games is an additional marketing tool for the theatre. As stated to the Planning Board, if my client wanted to operate only an internet café, it could acquire land in Halifax County or Northampton County where there are no limitations on hours of operation or alcohol sales if properly permitted, and where there are no license fees. The theatre will not become an internet café. All we are requesting is what the Planning Board and the public staff has recommended as amendments to the Land Use Ordinance, and specifically to permit up to 15% of the total area as an accessory use. If the City wishes to restrict the accessory use to 10% for the term of the lease, then we will resolve that issue during lease negotiations.*

*My client has the resources to insure that the theatre will succeed. When it does succeed, my client intends to be instrumental in the expansion of the theatre and in the development of the entertainment district as contemplated in 2005. We applaud the public staff’s recommendation that provisions (a) and (e) of Section 151-171 be deleted. If the City wishes to permit electronic gaming operations or*

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*internet cafes in the Entertainment District Overlay, my client welcomes any additional development around the theatre.*

*Your approval of the amendments to the Land Use Ordinance as proposed by the Planning Board and public staff, with the 15% limitation, is requested. I shall be happy to attempt to address any questions that the members of City Council may have.*

Mr. Gardner Payne, owner of S & G Internet Café at 291 Premier Boulevard, Roanoke Rapids, NC, apologized for his attire. He indicated that he just came in from a family vacation at the beach and did not have a suit with him. Mr. Payne stated his attorneys sent City officials a letter outlining his concerns. He stated he has lobbied and worked on behalf of internet cafes. He stated this proposed project flies in the face of what the General Assembly is trying to do with prohibiting alcohol and reducing the casino style atmosphere. He stated this project will have 200 to 300 terminals, and Roanoke Rapids will be talked about as a bad actor for allowing this. Mr. Payne stated each business should be required to provide live results to show whether or not it is legal. He stated the main issue is having a level playing field. He stated no one group should have an unfair advantage over another group. Mr. Payne stated he appreciates the work done to change the ordinance to make it fair. He pointed out that he does have a concern about possible action to put a cap of $80,000 per business for electronic gaming operations. He stated he does not believe that will be fair. He stated they could put over 100 machines in the theatre and pay only $80,000 while he is paying $50,000 for a far less number of machines. He stated he does not have the room to accommodate more machines. Mr. Payne stated if they have the ability to buy the Theatre, they should certainly be able to pay the full tax. He stated he can get a letter sent from his attorneys if this is approved. He stated all he is asking for is fairness.

There being no one else to speak, Mayor Doughtie declared the public hearing closed.

Motion was made by Councilwoman Scarbrough, seconded by Councilman Bobbitt and unanimously carried to adopt the following Statement of Consistency:

**Statement of Consistency with Plans to Amend Land Use Ordinance**

**Reference: Amendment to the City of Roanoke Rapids Land Use Ordinance Text Amendments to the City of Roanoke Rapids Land Use Ordinance to incorporate regulations for Electronic Gaming Operations including Internet Cafes:  Article II: Basic Definitions and Interpretations Section 151-15 Definitions of Basic Terms to include definitions Arcade, Performing Arts and Music Theater; Article X: Permissible Uses Section 151-149 Table of Permissible Uses and Section 151-150 Accessory Uses; Article XI Supplementary Use Regulations Section 151-171 Electronic Gaming Operations; Article XXIV Overlay Districts, Part I: Section 151-362 Entertainment Overlay District Purpose and Intent, Section 151-353 Permitted Uses to permit by right Accessory Uses**

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The Roanoke Rapids City Council met on Tuesday, July 10, 2012 at 7:00 p.m. and determined that the above mentioned request is consistent with the following Roanoke Rapids Comprehensive Development Plan policies and with the Roanoke Rapids Land Use Ordinance.

Comprehensive Development Plan Policies:

ADOPTED BY THE ROANOKE RAPIDS CITY COUNCIL ON THE 10TH DAY OF JULY 2012.

* 1. Coordinated intergovernmental planning for land use, transportation, utilities, environmental quality, community appearance, historic preservation and economic development shall be encouraged.

1.4 Plans, policies, public investments and regulatory tools shall be coordinated as appropriate with those of adjacent counties, and municipalities, and with those of other governmental levels.

1.5       City land use and development policies shall be designed to encourage innovation, flexibility, and adaptability such that development in the city and surrounding area is encouraged and accommodated, while protecting the city’s quality of life.

1.7 The City recognizes the responsibility and duty of the City’s Planning Board and planning staff to review and recommend sound planning decisions. The City also recognizes the responsibility of City Council to consider all factors and variables, in addition to planning recommendations, when considering land use and development issues. The City recognizes this planning process and mutual responsibilities as being healthy for good decision-making, not conflictive.

Upon review of the request, it is the Council’s determination that the above mentioned request is reasonable and in the public interest of the City of Roanoke Rapids in that it provides for the organized location and review of electronic gaming operations in the entertainment district that will help to ensure the health, safety, and general welfare of the citizens of Roanoke Rapids.

Adopted: July 10, 2012

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

Emery G. Doughtie

Mayor

Motion was made by Councilwoman Scarbrough and seconded by Councilman Bobbitt to adopt the following ordinance:

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROANOKE RAPIDS:**

**SECTION 1.** That Article II, Section 151-15 “Definitions of Basic Terms” of the Land Use Ordinance be amended to add the following definitions:

**ARTICLE II. BASIC DEFINITIONS AND INTERPRETATIONS**

**Section 151-15 Definitions of Basic Terms.**

() Arcade. A place or facility where pinball, computer, or other similar electronic or mechanical games are played for amusement only. This shall not be construed so as to include bingo games, gambling devices, electronic gaming machines, or any devices prohibited by law.

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() Theater, Performing Arts and Music. A structure having a minimum of 1,000 permanent seats used for dramatic, operatic, motion pictures, music, or other performance, for admission to which entrance money is received.

**SECTION 2.** That Article X, Section 151-149 “Table of Permissible Uses” of the Land Use Ordinance be amended to read as follows:

**ARTICLE X. PERMISSIBLE USES**

**Section 151-149 Table of Permissible Uses.**

The following Table of Permissible Uses should be in read in close conjunction with the definitions of terms set forth in Section 151-15 and the other interpretative provisions set forth in this article.

 Uses permitted in the Entertainment Overlay District are identified in Section 151-363 and are supplemental to this section, District B-4.

**SECTION 3.** That Article X, Section 151-150 “Accessory Uses” of the Land Use Ordinance be amended to add the following:

**ARTICLE X. PERMISSIBLE USES**

**Section 151-150 Accessory Uses.**

 (g) Within the Entertainment Overlay District, electronic gaming operations are allowed as an accessory use to a performing arts and music theater, subject to the following conditions:

 (1) The electronic gaming operation shall not occupy more than 10% of the total gross enclosed floor area of the performing arts and music theater building in which the electronic gaming operation is conducted as an accessory use.

 (2) The accessory use electronic gaming operation must be separated from the auditorium areas of the performing arts and music theater.

**SECTION 4.** That Article XI, Section 151-171 “Electronic Gaming Operations” of the Land Use Ordinance be amended to read as follows:

**ARTICLE XI. SUPPLEMENTARY USE REGULATIONS**

**Section 151-171 Electronic Gaming Operations.**

The following regulations will apply to electronic gaming operations in all zoning districts, except the Entertainment Overlay District.

1. Location: The operation shall not be located closer than:

 (1) Five hundred (500) feet from any residence or residential zoning district;

 (2) One-thousand (1,000) feet from any church or other religious institution, day care center, public or private elementary school or secondary educational school, public

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 park or playground, public library, video arcade, or motion picture theater which shows G or PG-rated movies to the general public on a regular basis;

 (3) One-thousand (1,000) feet from any existing Electronic Gaming Operation, Tattoo and Body Piercing Establishment, or Adult and Sexually Oriented Business;

 (4) Measurement of distance separation shall be in a straight line from the closest point of the buildings at which the electronic gaming operation is located.

1. The maximum number of machines permitted at an electronic gaming operation shall be determined by City Council during the conditional use permit application process utilizing criteria outlined in Section 151-60. In addition, the occupancy of each facility shall be determined using the regulations in the North Carolina Building Code as amended.
2. The machines/terminals must not be prohibited by State or Federal law and must have all applicable permits and licenses.

 (d) The issuance of a conditional use permit to operate an electronic gaming operation by City Council does not grant the owner or operator of such facility perpetual property rights to operate this facility. The operation shall at all times be in compliance with any State or Federal law or regulations.

Within the Entertainment Overlay District, the following regulations will apply:

 (a) An electronic gaming operation may be conducted as an accessory use to a performing arts and music theater.

 (b) Location: The operation shall not be located closer than:

 (1) Five hundred (500) feet from any residence or residential zoning district;

 (2) One-thousand (1,000) feet from any church or other religious institution, day care center, public or private elementary school or secondary educational school, public park or playground, public library, video arcade, or motion picture theater which shows G or PG-rated movies to the general public on a regular basis;

 (3) One-thousand (1,000) feet from any existing Electronic Gaming Operation, Tattoo and Body Piercing Establishment, or Adult and Sexually Oriented Business;

 (4) Measurement of distance separation shall be in a straight line from the closest point of the buildings at which the electronic gaming operation is located.

 (c) The machines/terminals must not be prohibited by State or Federal law and must have all applicable permits and licenses.

 (d) The operation shall at all times be in compliance with any State or Federal law or regulations.

**SECTION 5.** That Article XXIV, Section 151-362 “Entertainment Overlay District Purpose and Intent” of the Land Use Ordinance be amended to read as follows:

**ARTICLE XXIV. OVERLAY DISTRICTS**

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**Section 151-362 Entertainment Overlay District Purpose and Intent.**

The Roanoke Rapids City Council finds that Roanoke Rapids is rich in natural scenic beauty within its planning jurisdiction. The City also strives to enhance the continued development of its commercial areas. The City Council finds the general welfare will be served by orderly development within an Entertainment Overlay District (EOD) in a fashion which would preserve natural scenic beauty, and enhance trade, tourism, job creation, capital investment, and the general welfare within defined commercially zoned areas within the City and its surrounding area. The Council therefore establishes these regulations designated herein as “Entertainment Overlay Districts” to further those objectives while encouraging the orderly development of land within the City. The establishment of Entertainment Overlay Districts will serve to protect health, safety and environmental quality for persons and property within and adjacent to areas specifically suited to development for commercial entertainment purposes. The provisions contained herein shall be used to define acceptable and appropriate use, space, and activity relationships between adjacent sites so that the area’s importance as a regional entertainment venue may be realized. The Entertainment Overlay District is unique within the Roanoke Rapids planning jurisdiction and allows uses not permitted in other zoning districts.

**SECTION 6.** That Article XXIV, Section 151-363 “Entertainment Overlay District” of the Land Use Ordinance be amended to add the following use to the Table of Permitted Uses in the Entertainment Overlay District under (8) Permitted Uses:

**ARTICLE XXIV. OVERLAY DISTRICTS**

**Section 151-363 Entertainment Overlay District.**

 (8) Permitted Uses:

 (a) The following uses are the only uses permitted in the Entertainment Overlay District as indicated by an (X) under the applicable column:

|  |
| --- |
| **Table of Permitted Uses in the Entertainment Overlay District** |
| **Use** | **By Right** | **By Special Use Permit** | **By Conditional Use Permit** |
| Accessory Uses  | X |  |  |

**SECTION 7.** This Ordinance shall become effective upon adoption.

Upon being put to a vote, Councilwoman Scarbrough, Councilman Bobbitt, Councilwoman Cowen and Councilman Lawson voted in favor of the motion. Mayor Pro Tem Ferebee voted against the motion. Mayor Doughtie declared the motion carried by a 4 to 1 vote.

**Request from John and Kelly Barber for a Special Use Permit to Convert Second Floor Above Commercial Zone Space to a Dwelling Apartment Located at 1036 Roanoke Avenue**

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

July 2, 2012

To: Mayor Doughtie & City Council Members

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**Roanoke Rapids City Council**

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From: Kelly Lasky, Planning and Development Director/s/

**Reference: Second Floor Dwelling above Commercial Area at 1036 Roanoke Ave**

An Application for a Special Use Permit was submitted to the Planning & Development Department by John and Kelly Barber to construct a second floor dwelling apartment above commercial space at 1036 Roanoke Avenue.

The property located at 1036 Roanoke Avenue is located in the B-1 Commercial District. The use of the property as a residence above first floor commercial space is a use that is permitted with the approval of a Special Use Permit.

The Council is now required to hold a public hearing followed by a final decision concerning this matter.

**The Planning and Development staff has made the following findings concerning this request:**

**1. The requested permit is within its jurisdiction according to the table of permissible uses; or**

 *The requested permit is within its jurisdiction.*

**2. The application is complete; or**

*The application is complete.*

**3. If completed as proposed in the application, the development will comply with all requirements of the Land Use Ordinance; or**

*The Development will comply with all of the requirements of the Land Use Ordinance if completed as proposed in the application.*

**The following seven items were also considered when evaluating item #4 (a), (b), (c) and (d) that follows:**

1: ingress and egress to the lot and proposed structures, especially by pedestrians and automobiles, is safe and convenient in terms of access and traffic flow; and,

 *This is probably true; the site has direct access to Roanoke Avenue and the alley behind the building. All ingress and egress will be required to comply with North Carolina State Building Codes.*

2: off-street parking and loading affects adjacent property (in terms of traffic generation, economic impact, noise, glare and odor) similar to uses permitted in that zoning district; and,

 *This is probably true; currently this facility has available off-street parking for up to two (2) vehicles.*

3: refuse disposal affects adjacent property similar to uses permitted in that zoning district; and,

 *This is probably true; the proposed use should not substantially increase the amount of refuse disposal.*

4: utilities are available; and,

 *This is probably true; all utilities are currently available for the site.*

5: the type, dimensions and character of screening and buffering satisfactorily screens adjacent property;

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 and,

 *This is probably true; the parcel of land is zoned B-1 and will be compatible to the adjoining uses.*

6: signs and lighting affect adjacent property similar to uses permitted in that zoning district; and,

 *This is probably true; all signage will require a sign permit. The placement of any additional lighting will be reviewed to ensure no detrimental effect to adjoining property owners.*

7: required yards, open space and existing trees and other attractive and natural features of the land are preserved.

 *This is probably true; the site is currently developed and the required setbacks will be met.*

Given the preceding, the Staff has made the following findings concerning this request:

**4: If completed as proposed, the development, more probably than not:**

 (a) Will not materially endanger the public health or safety; or

 *The staff has determined this is probably true; the proposed use will be located within an existing facility. An assessment of the previously referenced seven items used to evaluate 4 (a), (b), (c) & (d) indicates no specific endangerment to the public health or safety that is not adequately addressed.*

 (b) Will not substantially injure the value of the adjoining or abutting property; or

 *The staff has determined this is probably true. The proposed use is compatible with surrounding property uses.*

 (c) Will be in harmony with the area in which it is to be located; or

 *The staff has determined this is probably true. Its use as proposed will be in harmony with the existing surrounding uses in the area based on the previously referenced seven items used to evaluate items 4 (a), (b), (c) & (d).*

 (d) Will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or other plan officially adopted by the City Council.

 *The staff has determined this is probably true. The Comprehensive Development Plan states the following policies should be considered:*

**Downtown/Central Business District**

8.2 Residential development and redevelopment opportunities shall be encouraged in the downtown area as a viable and productive living environment and to support downtown area retail businesses.

**Residential Land Use**

9.10 Housing development and redevelopment efforts within and adjacent to the City’s central business district shall be encouraged as a downtown revitalization tool.

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The applicant has addressed the requisite questions, which must be answered by the City Council in the application. It is your obligation to insure each has been adequately addressed after hearing all parties prior to rendering your final decision.

**Staff Recommendation:** After a complete review of the information submitted to date by the applicant, it is the Staff’s opinion that the request satisfactorily meets the requirements of Section 151 – 54 of the Land Use Ordinance.

The Council has several options regarding this Special Use Permit application: (1) approval of the request as submitted; (2) denial of the request; (3) approval of the request, subject to certain stated conditions.

If this request is denied, the petitioner may not resubmit the request for a period of one (1) year, unless he can produce significant credible new information concerning the issue, after which he may be re-heard by the Council if it deems the new information significant in nature.

A public hearing having been advertised and proper notices having been given according to law, Mayor Doughtie opened the public hearing for comments.

There being no one to speak, Mayor Doughtie declared the public hearing closed.

Councilman Lawson asked about the exact location.

Ms. Lasky indicated that a travel agency previously occupied this space. She pointed out that all property owners within 100 feet were notified, and the department has not received any responses.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried that items 1 – 3 of Section I are true based on the foregoing staff report dated July 2, 2012 and Section 151-54 of the Land Use Ordinance: (1) the requested permit is within its jurisdiction according to the table of permitted uses; (2) the application is complete and (3) if completed as proposed in the application, the development will comply with all requirements of the Land Use Ordinance.

Motion was made by Councilman Lawson, seconded by Councilman Bobbitt and unanimously carried that the following items 1 – 7 of Section II are true based on the foregoing staff report dated July 2, 2012: (1) ingress and egress to the property is safe and convenient in terms of access and traffic flow; (2) off-street parking and loading affects adjacent property similar to uses permitted in that zoning district; (3) refuse disposal affects adjacent property similar to uses permitted in that zoning district; (4) utilities are available; (5) the type, dimensions and character of screening and buffering satisfactorily screens adjacent property; (6) signs and lighting affect adjacent property similar to uses permitted in that zoning district; (7) required yards, open space, and existing trees and other attractive and natural features of the land are preserved.

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Motion was made by Mayor Pro Tem Ferebee, seconded by Councilwoman Bobbitt and unanimously carried that it is true based on the foregoing staff report dated July 2, 2012, items 1 – 7 included in that report and Section 151-54 of the Land Use Ordinance that if completed as proposed, the development, more probably than not will not materially endanger the public health or safety.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried that it is true based on the foregoing staff report dated July 2, 2012, items 1 – 7 included in that report and Section 151-54 of the Land Use Ordinance that if completed as proposed, the development, more probably than not will not substantially injure the value of the adjoining or abutting property.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried that it is true based on the foregoing staff report dated July 2, 2012, items 1 – 7 included in that report and Section 151-54 of the Land Use Ordinance that if completed as proposed, the development, more probably than not will be in harmony with the area in which it is to be located.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried that it is true based on the foregoing staff report dated July 2, 2012, items 1 – 7 included in that report and Section 151-54 of the Land Use Ordinance that if completed as proposed, the development, more probably than not will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or any other plan officially adopted by the City Council.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried to grant a Special Use Permit to John and Kelly Barber to construct a second floor dwelling apartment above commercial space at 1036 Roanoke Avenue as described in the foregoing report.

**Request from David R. Awtrey (Applicant) and Greatfalls Plaza LP (Owner) for a Conditional Use Permit to Operate an Electronic Gaming Operation (Internet Café) located at 1213 Julian R. Allsbrook Highway**

July 2, 2012

To: Mayor Doughtie and Members of City Council

From: Kelly Lasky, Planning and Development Director/s/

**Reference: Conditional Use Permit Request for an Electronic Gaming Operation “Internet Café” located 1213 Julian R. Allsbrook Highway**

An Application for a Conditional Use Permit was submitted to the Planning & Development Department by David R. Awtrey (Applicant) and Greatfalls Plaza LP North Carolina Limited Partnership (Owner) to conduct

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an Internet Café at 1213 Julian R. Allsbrook Highway, located in the B-4 Commercial District. The unit at 1213 Julian R. Allsbrook Hwy is located adjacent to Sears in the Great Falls Plaza shopping center. The use of the property as an Electronic Gaming business is a use that is permitted with the approval of a Conditional Use Permit.

In addition to electronic gaming, the applicant proposes to offer computer services such as copy, printing, pre-paid phone cards and bill pay service. The applicant proposes to install up to 80 electronic gaming computers. It is anticipated that the business will employ four or five local residents. The business hours of operation proposed by the applicant are Monday through Thursday from 10:00 a.m. to 10:00 p.m., Friday and Saturday from 10:00 a.m. to 1:00 a.m. and Sunday from 1:00 p.m. to 10:00 p.m. *The Planning & Development Department has notified the applicant that City of Roanoke Rapids Land Use Ordinance requires gaming operations to cease at 12:00 a.m. (midnight) and that the business shall operate in compliance with the Ordinance at all times.*

The City Council is now required to hold a public hearing followed by a final decision concerning this matter.

**The Planning and Development staff has made the following findings concerning this request:**

**Section I**

**1. The requested permit is within its jurisdiction according to the table of permissible uses; or**

 *The requested permit is within its jurisdiction.*

**2. The application is complete; or**

*The application is complete.*

**3. If completed as proposed in the application, the development will comply with all requirements of the Land Use Ordinance; or**

*The Development will comply with all of the requirements of the Land Use Ordinance if completed as proposed in the application. A floor plan will be required and will go through the Business Use Permit review process. Once the inspections have been conducted and the building has been approved for occupancy, a Business Use Permit will be issued.*

**Section II**

**The following seven items were also considered when evaluating item #4 (a), (b), (c) and (d) that follows:**

1: ingress and egress to the lot and proposed structures, especially by pedestrians and automobiles, is safe and convenient in terms of access and traffic flow; and,

 *This is probably true; the site has direct access to Julian R. Allsbrook Hwy, which is controlled by a traffic signal at Cardinal Drive and by a secondary driveway into the shopping center.*

2: off-street parking and loading affects adjacent property (in terms of traffic generation, economic impact, noise, glare and odor) similar to uses permitted in that zoning district; and,

 *This is probably true; as currently proposed, the off-street parking requirements for Electronic Gaming Operations are provided within the Great Falls Plaza shopping center.*

3: refuse disposal affects adjacent property similar to uses permitted in that zoning district; and,

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 *This is probably true; the refuse collection requirements of the City of Roanoke Rapids shall apply to the development.*

4: utilities are available; and,

 *This is probably true; all utilities are currently available for the site connections and extensions shall be coordinated with appropriate entities.*

5: the type, dimensions and character of screening and buffering satisfactorily screens adjacent property; and,

 *This is probably true; the parcel of land is zoned B-4 and will be compatible to the adjoining uses.*

6: signs and lighting affect adjacent property similar to uses permitted in that zoning district; and,

 *This is probably true; all signage will require a sign permit. All proposed signage shall be constructed in accordance with the Land Use Ordinance. The off-street parking area is developed and currently lighted.*

7: required yards, open space and existing trees and other attractive and natural features of the land are preserved.

 *Staff believes this is probably true; the site is currently developed.*

**Section III**

Given the preceding, the Staff has made the following findings concerning this request:

**4: If completed as proposed, the development, more probably than not:**

 (a) Will not materially endanger the public health or safety; or

 *The staff has determined this is probably true; the business shall be required to comply with all applicable federal, state and local codes and ordinances. An assessment of the previously referenced seven items used to evaluate 4 (a), (b), (c) & (d) indicates no specific endangerment to the public health or safety that is not adequately addressed.*

 (b) Will not substantially injure the value of the adjoining or abutting property; or

 *The staff believes this is probably true. Staff cannot determine the impact this proposed use would have on surrounding properties however based on the seven additional items used to evaluate 4 (a), (b), (c) & (d) any potential negative effects on adjoining or abutting property should be minimal.*

 (c) Will be in harmony with the area in which it is to be located; or

 *The staff has determined this is probably true. Its use as proposed will be in harmony with the existing surrounding uses in the area based on the previously referenced seven items used to evaluate items 4 (a), (b), (c) & (d).*

(d) Will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or other plan officially adopted by the City Council.

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 *The staff has determined this is probably true. The Comprehensive Development Plan states the following policies should be considered:*

**Economic Development**

2.1 The City shall encourage new and expanding industries and businesses to locate in the City, with equal emphasis on facilitating and assisting growth and development of the existing business and industrial community.

2.2 The City shall protect, enhance, and encourage a high quality of life, image, and cultural amenities as an effective approach to economic development.

2.3 The benefits of continued economic development shall be balanced against the possible detrimental effects such development may have on the quality of life enjoyed by area residents.

**Commercial Land Use**

3.6 The City of Roanoke Rapids will incorporate innovative planning concepts and techniques, including conditional use and special use zoning, to encourage and accommodate positive commercial development and activity in the City and surrounding area.

**Section IV:**

The applicant has addressed the requisite questions, which must be answered by the City Council in the application. It is your obligation to ensure each has been adequately addressed after hearing all parties prior to rendering your final decision.

**Planning Board Recommendation:**

On June 21, 2012 the Roanoke Rapids Area Planning Board conducted a public meeting to review this request. A brief discussion took place about the Conditional Use Permit Application.

Following Planning staff presentation and public input, the Roanoke Rapids Area Planning Board passed a motion with a unanimous vote for a favorable recommendation to City Council for approval of the Conditional Use Permit to David Awtrey and Greatfalls Plaza LP located at 1213 Julian Allsbrook Highway for an electronic gaming business with the conditions set forth by the Land Use Ordinance and the Planning Department in the attached report (and any others that the City Council may suggest).

**Planning & Development Staff Review:**

After a complete review of the information submitted to date by the applicant, it is the Staff’s opinion that the request satisfactorily meets the requirements of Section 151 – 54 of the Land Use Ordinance.

The staff recommends; however, if approval of the permit is granted, it is subject to the following stipulation:

1. Additional detailed construction drawings and building plans shall be provided to the Planning and Development staff, when requested, to determine compliance with any one or more of the provisions of the Land Use Ordinance, Building Code, Fire Code, City Code or other applicable required code or ordinance.

**Requested Action:**

The City Council has several options regarding this Conditional Use Permit application: (1) approval of the request as submitted: (2) denial of the request; (3) approval of the request, subject to certain stated conditions.

If this request is denied, the petitioner may not resubmit the request for a period of one (1) year, unless he can produce significant credible new information concerning the issue, after which he may be re-heard by the

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Council if it deems the new information significant in nature.

A public hearing having been advertised and proper notices having been given according to law, Mayor Doughtie opened the hearing for comments.

There being no one to speak, Mayor Doughtie declared the public hearing closed.

Motion was made by Councilman Lawson, seconded by Councilwoman Cowen and unanimously carried that items 1 – 3 of Section I are true based on the foregoing staff report dated July 2, 2012 and Section 151-54 of the Land Use Ordinance: (1) the requested permit is within its jurisdiction according to the table of permitted uses; (2) the application is complete and (3) if completed as proposed in the application, the development will comply with all requirements of the Land Use Ordinance.

Motion was made by Councilman Lawson, seconded by Councilwoman Cowen and unanimously carried that the following items 1 – 7 of Section II are true based on the foregoing staff report dated July 2, 2012: (1) ingress and egress to the property is safe and convenient in terms of access and traffic flow; (2) off-street parking and loading affects adjacent property similar to uses permitted in that zoning district; (3) refuse disposal affects adjacent property similar to uses permitted in that zoning district; (4) utilities are available; (5) the type, dimensions and character of screening and buffering satisfactorily screens adjacent property; (6) signs and lighting affect adjacent property similar to uses permitted in that zoning district; (7) required yards, open space, and existing trees and other attractive and natural features of the land are preserved.

Motion was made by Councilwoman Scarbrough, seconded by Councilwoman Bobbitt and unanimously carried that it is true based on the foregoing staff report dated July 2, 2012, items 1 – 7 included in that report and Section 151-54 of the Land Use Ordinance that if completed as proposed, the development, more probably than not will not materially endanger the public health or safety.

Motion was made by Councilwoman Scarbrough, seconded by Councilman Bobbitt and unanimously carried that it is true based on the foregoing staff report dated July 2, 2012, items 1 – 7 included in that report and Section 151-54 of the Land Use Ordinance that if completed as proposed, the development, more probably than not will not substantially injure the value of the adjoining or abutting property.

Motion was made by Councilwoman Scarbrough, seconded by Councilman Bobbitt and unanimously carried that it is true based on the foregoing staff report dated July 2, 2012, items 1 – 7 included in that report and Section 151-54 of the Land Use Ordinance that if completed as proposed, the development, more probably than not will be in harmony with the area in which it is to be located.

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Motion was made by Councilwoman Scarbrough, seconded by Councilman Bobbitt and unanimously carried that it is true based on the foregoing staff report dated July 2, 2012, items 1 – 7 included in that report and Section 151-54 of the Land Use Ordinance that if completed as proposed, the development, more probably than not will be in general conformity with the Comprehensive Development Plan, Thoroughfare Plan, or any other plan officially adopted by the City Council.

Motion was made by Councilwoman Cowen, seconded by Councilwoman Scarbrough and unanimously carried to grant a Conditional Use Permit to David Awtrey (Applicant) and Greatfalls Plaza LP (Owner) to operate an electronic gaming operation at 1213 Julian R. Allsbrook Highway subject to the following stipulation:

1. Additional detailed construction drawings and building plans shall be provided to the Planning & Development staff, when requested, to determine compliance with any one or more of the provisions of the Land Use Ordinance, Building Code, Fire Code, City Code or other applicable required code or ordinance.

Mayor Pro Tem Ferebee stated this electronic gaming operation will fall under the amended ordinance adopted earlier.

Councilman Lawson stated that is correct.

**Consideration of Orders Directing City Attorney to Petition the Court for Compliance with Unsafe Building Orders for 206 & 208 Roanoke Avenue**

Interim City Manager Wyatt stated, before calling upon Kelly Lasky, Director of Planning & Development, he would like to make some prefacing remarks relative to the sobering subject of dilapidated commercial structures within the City. He acknowledged that there is a sentimental value associated with the property being considered tonight but it is important, unless Council instructs otherwise, to deal with such structures in a systematic and equitable manner. Mr. Wyatt stated, at the risk of being critical, that it appears that this issue as it relates to particular structures has been dealt with in a somewhat haphazard manner.

Mr. Wyatt stated it is his urging that these structures be brought to Council’s attention in a timely manner with the objective of having the courts direct that the remediation take place either by abating the nuisance or removing the particular structure involved. He stated that Council can be assured that the staff has employed reasonableness and common sense in administering the ordinance – even at the risk of being subjected to criticism from citizens that feel strongly that these structures are not being dealt with more promptly.

Mr. Wyatt stated he would urge Council, after receiving the recommendation from the department, to convey to the courts promptly the request to direct property owners to remediate the said problem. He stated Council certainly has the right to address relief in terms of extensions of time to comply; however, it is his view that by the time it comes to

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Council, the staff has exhausted every effort to work with the property owner.

Mr. Wyatt pointed out that the property to be discussed in the 200 block tonight and shortly, the one in the 1000 block, needs to be dealt with promptly, given the extended length of time they have not been in compliance. He stated with regard to the property in the 1000 block of the Avenue, he has urged the City Attorney to move forward with requesting the court’s direction in this regard as directed by the City Council a few years ago.

Mr. Wyatt stated it is his opinion that in both cases, the owners of the property have been given an extended amount of time to comply with the City’s ordinance to the point that the staff could be criticized for trying to exercise a degree of reasonableness. He stated it is safe to say that relative to these properties and at least one other previously discussed property, that the department has shown common sense and reasonableness in trying to abate these problems, especially as it relates to the safety of our citizens. Mr. Wyatt stated in some way, the staff has been taken advantage of in carrying out its work.

Mr. Wyatt pointed out that if the owners of the properties do notcomply with the court’s orders, the City will be expected to gain compliance, and more than likely, the compliance will come in the form of having to remove a structure. He stated from his experience, removal of all structures is very expensive especially when the structures are more than likely laden with asbestos. Mr. Wyatt stated certainly, it is acknowledged that we do not have the funds to ultimately remediate the property; however, at a minimum, we must in some way ensure that the citizens are safe from the potential harm from a structure. He stated it is also recognized that the City may never recover the cost it has incurred in remediating the structure especially as it relates to tearing down a building. Mr. Wyatt stated he sincerely believes the only way to recover at least some of the costs incurred is through a lien on the property although there may be other parties such as the IRS that have priority over the City. In many cases, the properties are well past their economic viability; therefore, in many cases, cities get stuck with the structures.

Mr. Wyatt stated he just wanted to take this opportunity to indicate to Council that the staff is hard at work trying to gain compliance with this very serious safety problem in the case of several commercial structures. He stated it is hoped that Council will fully support the staff in carrying out compliance with the City ordinance.

Planning & Development Director Lasky presented a slideshow of photographs of the properties in question and reviewed the following staff report with Council:

### **MEMORANDUM**

To: Mayor Doughtie and City Council Members

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**Roanoke Rapids City Council**

**July 10, 2012**

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

Re: **206 Roanoke Avenue (Parcel # 0900179)** **and 208 Roanoke Avenue (Parcel # 0905155)** **– The People’s Theater: Order Directing City Attorney to Petition Court for Order Requiring Property Owner to Comply with Order of Building Inspector**

Date: July 3, 2012

This memorandum provides a chronological order of events concerning The People’s Theater located at 206 – 208 Roanoke Avenue. The owner of the property is Eric Bowman.

**Timeline of Code Enforcement Actions**

The following is provided as a chronological order of events concerning the above referenced property:

* ***June 6, 2006*** – A building permit was issued for repairs to the buildings. Mr. Eric Bowman, a real estate development attorney out of Arizona, intended to renovate and restore the theater to its previous use. **Improvements were initiated, but soon thereafter, work was stopped because proper fire rated construction materials were not being used in accordance with improvement plans.** Within a month, the contractor abandoned the project leaving the loft structure unsecured and open to weather. Mr. Bowman was notified and his response indicated that another contractor would be brought in to complete the work. Since then, the project is incomplete and the buildings remain exposed to weather and significant deterioration.
* ***June 07, 2007*** – A second building permit was issued for repairs to the buildings. Work was initiated again and stopped.
* ***September 10, 2008*** –TheRoanoke Rapids Fire Dept. issued a complaint that the building(s) were unsecured. An inspection was performed on the building(s). At that time the building(s) were considered to be a safety hazard and an Unsafe Building placard was posted on the building.
* ***September 12, 2008*** – Code Enforcement Officer Donald Tart sent Mr. Bowman a letter to find out his intentions to repair and to give notice that the buildings were found unsecured and considered a safety hazard. Mr. Tart requested that the owner take immediate action to secure the buildings or the city would have a contractor secure the building and charge the owner for completion of the work. The owner is given the opportunity to bring the building into compliance with no further action required. **Notice is also giving that research of the property is being conducted in order to begin a formal process to ensure that the building(s) are brought into compliance with the NC State Building Code.**
* ***April 23, 2009*** – *Formal research began and a Notice of Lis Pendens was filed with The Clerk of Superior Court in Halifax at a cost of $8.00.*
* ***May 1, 2009*** – Code Enforcement Officer Donald Tart conducted an exterior only inspection and noticed walls collapsing in areas and found the building to be a potential fire hazard with wire appearing to be faulty and the ceiling falling in areas. Following the inspection, the Inspector prompted Dominion Power to remove service to a temporary power pole for the building due to lack of construction and the unsafe conditions that were noticed on the existing and surrounding buildings.
* ***June 10, 2009*** – The Roanoke Rapids Fire Department responded to a call at the People’s Theater and found a rear exit door open at the top of the fire escape and a smell of smoke in the area. No fire was found and the owner was advised of the continual problem of the building being found unsecured.
* ***June 11, 2009*** – Building(s) were secured by Mr. Derrick Hawkins.

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* ***July 1, 2009*** – Hearing notice was posted on building(s) and mailed via certified and regular mail to Mr. Bowman to give notice that a hearing would be conducted on July 29, 2009 at 10:30 a.m. Mr. Bowman was also notified by email of the hearing.
* ***July 12, 2009*** – Mr. Bowman responded by email that he was out of the country and requested that the hearing be rescheduled to so that he may be present.
* ***July 13, 2009*** – Code Enforcement Officer Donald Tart responded to Mr. Bowman by email and agreed to reschedule the July 29, 2009 Hearing. Mr. Tart advised Mr. Bowman to contact him to schedule a time and date that he could meet with him at the buildings to discuss the deteriorated conditions and plans to make repairs. **The Planning & Development Department attempted to reschedule the hearing at the convenience of the property owner Mr. Bowman.**
* ***September 15, 2009*** – Code Enforcement Officer Donald Tart emailed Mr. Bowman (after no response was received) to request Mr. Bowman to contact him to schedule a time and date that he could meet with him at the buildings to discuss the deteriorated conditions and plans to make repairs. **The Planning & Development Department attempted to reschedule the hearing at the convenience of the property owner Mr. Bowman.**
* ***April 7, 2010*** – Mr. Bowman contacted the Planning & Development Department requesting a meeting to discuss the improvements needed to the People’s Theater buildings. A meeting was scheduled for April 12, 2010
* ***April 12, 2010*** – A meeting was conducted and options were discussed for improvements and funding opportunities.
* ***June 7, 2010*** – An inspection of the building(s) was performed. Contact was made with Mr. Derrick Hawkins to advise that the building(s) were found to be unsecured.
* ***June 8, 2010*** – Building(s) were secured by Mr. Derrick Hawkins.
* ***September 30, 2011*** – The Planning Department received a complaint that the building was unsecured, but was found secured during inspection.
* ***October 18, 2011*** –The Planning & Development Department initiated the formal process for the buildings. ***Formal research began.*** Mr. Bowman was notified that the process would be forthcoming.
* ***October 20, 2011*** – A letter was sent to Eric R. Bowman. The (owner) is formally given notice to contact the Planning & Development Department to state his intentions to repair the buildings located at 206-208 Roanoke Avenue. The letter also stated that previous discussions and meetings with the owner have failed and that the recourse in the matter is to begin a formal process to ensure the unsafe building is brought up to compliance to the NC State Building Code. **Mr. Bowman called and spoke with Mr. Tart inquiring as to the reasons for pursuing corrective action.**
* ***October 25, 2011*** – The Planning Department received a complaint from the Roanoke Rapids Fire Dept. that the building was unsecured. The owner and superintendent were notified. **Public Works Department secured the building due to concerns of the gas piping at breezeway.**
* ***October 26, 2011*** – Mr. Bowman responded by email and advised that he planned to start some work on the building(s) to make it safer.

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* ***January 12, 2012*** – ***Formal research began.***
* ***January 17, 2012*** – Hearing notice was posted on building(s) and mailed via certified and regular mail to Mr. Bowman to give notice that a hearing would be conducted on February 16, 2012 at 10:30 a.m. Mr. Bowman was also notified by email of the hearing.
* ***February 1, 2012*** – Code Enforcement Officer Donald Tart sent e-mail correspondence to Mr. Eric Bowman (owner) to remind him of the upcoming hearing on February 16th**. Mr. Bowman immediately responded stating that he would be out of the country and requested that the hearing be rescheduled to either February 27 or March 2 so that he may be present at the hearing.**
* ***February 2, 2012*** –Per request of the property owner, Code Enforcement Officer Tart notified Mr. Bowman by email and rescheduled the hearing for March 2, 2012 at 10:30 a.m.
* ***February 8, 2012*** – Hearing notice was posted on building(s) and mailed via certified and regular mail to Mr. Bowman to give notice that a hearing would be conducted on March 2, 2012 at 10:30 a.m. Mr. Bowman was also notified by email of the hearing. **In order to ensure that all proper notification is given, an advertisement giving Notice of Hearing was scheduled with the local newspaper of general circulation to run for three consecutive weeks prior to the hearing. The publication dates were: February (8, 15, 22), 2012.**
* ***February 22, 2012*** – **(Note: Notice of Hearing is recorded as delivered as required).**
* ***March 2, 2012*** – The Hearing was held at 10:30 a.m. Present for the Hearing were: Code Enforcement Supervisor Brian Duhadaway, Minimum Housing Code Enforcement Officer Donald Tart, Public Works Director Larry Chalker. An Administrative Inspection Warrant was obtained and executed due to the owner not being present for the Hearing. Entry to 206 Roanoke Ave. was gained by Locksmith David Lynch and entry to 208 Roanoke Ave. was gained by Public Works employee’s removing a boarded up exterior door. At this time a detailed visual inspection of the interior and exterior was made. A list of all observed unsafe conditions was recorded.
* ***March 5, 2012*** – Findings of Fact were sent with an Order that the owner shall repair or remove unsafe conditions or demolish and remove the structure(s) from the property by a date no later than May 4, 2012. If the structure(s) is to be repaired and not demolished and removed, the structure(s) should be repaired, altered, or by removing the structure(s) to correct all of the conditions and deficiencies noted in exhibit A attached hereto within the specified time frame. Mailing is by Certified and Regular mail to the owner. The notice was posted to the building. Findings of Fact were also sent by email.
* ***March 14, 2012*** – Mr. Tart emailed the owner to remind him of the upcoming deadline date of 3-15-12 to appeal the Order.
* ***May 7, 2012*** – Mr. Tart received an email from owner requesting a (60) day extension. Mr. Tart replied and extended the deadline date to July 3, 2012. **The owner is advised that any additional extensions**

**will have to be granted by City Council.** A letter was also sent on May 8, 2012 to give notice that his extension request was granted. **(Note: Findings of Fact is recorded as delivered as required).**

* ***June 22, 2012*** – Re-Inspection was performed. Repairs had not been made to bring the building up to code nor had the building been demolished and removed. (Notice **was sent to the owner by mail and email to advise him of the upcoming extended deadline to** repair or remove unsafe conditions or demolish and remove the building(s) from the property by a date no later than July 3, 2012.

**16727**

**Roanoke Rapids City Council**

**July 10, 2012**

* ***June 26, 2012*** – Mr. Bowman left voicemail at 3:47 p.m. with Mr. Tart to request meeting on 6-27-12 to go over the Findings of Fact List and to pick up keys for the building(s). Mr. Tart returned his call at 4:45 p.m. and left voicemail that a meeting could be scheduled at 3:00 p.m. 6-27-12.
* ***June 27, 2012*** – Mr. Tart contacted Mr. Bowman by phone at 8:20 a.m. and confirmed the scheduled meeting at 3:00 p.m. The meeting was held and the owner stated that minor repairs will begin immediately and the major repairs would begin within 90 days. **After the meeting, the owner purchased a Building Permit for safety repairs at 206 Roanoke Ave.**
* ***July 2, 2012*** – Notice is sent to the owner by regular mail and email to advise him of the City Council Meeting to be held on ***July 10, 2012 at 7:00 p.m.*** at the Lloyd Andrews Meeting hall, 700 Jackson Street, Roanoke Rapids, N.C. in which ***Council will consider an Ordinance directing the City Attorney to petition the General Court of Justice of Halifax County for an Order requiring the owner of certain property located at 206 and 208 Roanoke Ave. Roanoke Rapids, N.C. to comply with the Order of the Building Inspector.***
* ***July 3, 2012*** – Request is made to the City Manager for review and action by the City Council. It has been **123 days** since the Hearing was conducted at the building.
* Taxes in the amount of **$1,807.47** are owed for the tax years **2008 - 2011** on **206 Roanoke Ave.**
* Taxes in the amount of **$492.12** are owed for the tax years **2008 - 2011** on **208 Roanoke Ave.**

**Planning & Development Department Recommendation**

Planning & Development staff has determined the structures to be an unsafe building as defined by Chapter 150 of the Code of the City of Roanoke Rapids. Staff has properly accomplished the required procedures and the owner has failed to comply with the Official’s Order.

Staff, therefore, requests adoption of ordinances by City Council directing the City Attorney to petition the General Court of Justice for orders requiring the owner of certain property located at 206 and 208 Roanoke Avenue, to comply with the orders of the Building Inspector to repair or demolish and remove the structure(s).

**FINDINGS OF FACT AND ORDER OF UNSAFE BUILDING**

# RE: UNSAFE BUILDING

**ADDRESS**  206 ROANOKE AVENUE

**PARCEL**  0900179

**Dear:**  Eric R. Bowman,

Pursuant to the N.C.G.S. 160-A-424 et. seq. and Title 9 of Chapter 20 of the Roanoke Rapids City Code and Section 160A-426 of the General Statutes of North Carolina, I have determined that the structure located on the above referenced parcel of land is unsafe and thereby constitutes a fire and safety hazard and is dangerous to life, health and other property.

**In this regard, on**  March 2, 2012 **, I conducted a hearing at the premises to determine what actions you intend to take relative to the structure. Present at the hearing was Code Enforcement Supervisor; Brian Duhadaway, Code Enforcement Officer, Donald Tart and Public Works Director, Larry Chalker.**

**Upon the record and all of the evidence offered and contentions made, the undersigned Building Inspector does hereby find the following facts:**

**16728**

**Roanoke Rapids City Council**

**July 10, 2012**

**1. The above named owner of the structure located at the place specified were duly served as required by law with written Determination and Notice of Hearing which set forth the Determination that the structure located at the above address is unsafe and thereby constitutes a fire and safety hazard and is**

 **dangerous to life, health and other property, and fixed a time and place for hearing upon the Determination as provided by law.**

**2. The structure described above is unsafe and thereby constitutes a fire and safety hazard and is dangerous to life, health and other property.**

**It is therefore ordered that you are required to:**

Repair or remove unsafe conditions or demolish and remove the structure from the property by a date no later than **May 4, 2012**. If structure is to be repaired and not demolished and removed, the structure should be repaired, altered, or by improving the structure to correct all of the conditions and deficiencies noted in exhibit A attached hereto within the specified time frame.

However, prior to repairing, or demolishing the structure, please obtain the requisite permits from this office authorizing your proposed actions.

**If you are not satisfied with the Order, you may appeal same to the City Council by giving written notice to the City Clerk and myself within ten (10) days following issuance of the written order. However, should you not appeal, you must take the actions referenced above. Failure to comply with the Order will constitute a misdemeanor and you will be punished in the discretion of the court.**

**This is the**  5th **day of**  March**, 2012.**

 **Sincerely****,**

 **Building Inspector**

### **March 5, 2012**

##### **Unsafe Building Code Violations For: 206 Roanoke Avenue (0900179)**

##### **Exhibit “A”**

1. **ROOF OF BUILDING IS COLLAPSING IN AREAS.**
2. **FASCIA AND GUTTERS IS FALLING IN AREAS.**
3. **GLASS TOWELL IS LOOSE AND FALLING AT FRONT OF BUILDING.**
4. **2ND FLOOR EXTERIOR WALLS IS DETERIORATED, LOOSE AND FALLING IN AREAS.**
5. **2ND FLOOR LOFT IS OPEN AND SUBJECTED TO THE ELEMENTS OF WEATHER.**
6. **RAZOR WIRE IS IMPROPERLY INSTALLED AT SIDE ENTRANCE/FIRE ESCAPE.**
7. **FIRE ESCAPE STAIRWAYS ON EXTERIOR/INTERIOR ARE NOT STRUCTURALLY SOUND.**
8. **THE BUILDING HAS UNRESTRICTED ACCESS.**
9. **MARQUIS SIGN AT FRONT ENTRANCE HAS EXPOSED ELECTRICAL WIRING AND NOT STRUCTURALLY SOUND.**
10. **CEILING COVERINGS AT FRONT ENTRANCE IS FALLING IN AREAS.**
11. **MOLD APPEARS TO BE PRESENT ON THE INTERIOR OF THE BUILDING.**
12. **INTERIOR CEILING COVERINGS IS FALLING IN AREAS.**
13. **WALL COVERING DETERIORATED, LOOSE AND FALLING IN AREAS.**
14. **INTERIOR FLOORING IS WATER DAMAGED, DETERIORATED AND COLLAPSING IN AREAS INCLUDING THE SECOND FLOOR.**
15. **STAIRCASE TO SECOND FLOOR IS NOT STRUCTURALLY SOUND.**

**16729**

**Roanoke Rapids City Council**

**July 10, 2012**

1. **BALCONY IS DETERIORATED AND IS NOT STRUCTURALLY SOUND IN AREAS.**
2. **ELECTRICAL SYSTEM APPEARS TO BE UNSAFE WITH EXPOSED ELECTRICAL WIRING IN AREAS.**
3. **ELECTRICAL LIGHT FIXTURES ARE LOOSE AND FALLING IN AREAS.**
4. **NOXIOUS GROWTH WAS GROWING ON THE SIDE OF BUILDING IN AREAS.**

**NOTE: It is therefore ordered that you are required to:**

**Repair or remove unsafe conditions or demolish and remove the structure from the property by a date no later than May 4, 2012. If structure is to be repaired and not demolished and removed, the structure should be repaired, altered, or by improving the structure to correct all of the conditions and deficiencies noted in exhibit A attached hereto within the specified time frame.**

**However, prior to securing, repairing, or demolishing the structure, please obtain the requisite permits from this office authorizing your proposed actions**.

**FINDINGS OF FACT AND ORDER OF UNSAFE BUILDING**

# RE: UNSAFE BUILDING

**ADDRESS**  208 ROANOKE AVENUE

**PARCEL**  0905155

**Dear:**  Eric R. Bowman,

Pursuant to the N.C.G.S. 160-A-424 et. seq. and Title 9 of Chapter 20 of the Roanoke Rapids City Code and Section 160A-426 of the General Statutes of North Carolina, I have determined that the structure located on the above referenced parcel of land is unsafe and thereby constitutes a fire and safety hazard and is dangerous to life, health and other property.

**In this regard, on**  March 2, 2012 **, I conducted a hearing at the premises to determine what actions you intend to take relative to the structure. Present at the hearing was Code Enforcement Supervisor; Brian Duhadaway, Code Enforcement Officer, Donald Tart and Public Works Director, Larry Chalker.**

**Upon the record and all of the evidence offered and contentions made, the undersigned Building Inspector does hereby find the following facts:**

**1. The above named owner of the structure located at the place specified were duly served as required by law with written Determination and Notice of Hearing which set forth the Determination that the structure located at the above address is unsafe and thereby constitutes a fire and safety hazard and is dangerous to life, health and other property, and fixed a time and place for hearing upon the Determination as provided by law.**

**2. The structure described above is unsafe and thereby constitutes a fire and safety hazard and is dangerous to life, health and other property.**

**It is therefore ordered that you are required to:**

Repair or remove unsafe conditions or demolish and remove the structure from the property by a date no later than **May 4, 2012**. If structure is to be repaired and not demolished and removed, the structure should be repaired, altered, or by improving the structure to correct all of the conditions and deficiencies noted in exhibit A attached hereto within the specified time frame.

**16730**

**Roanoke Rapids City Council**

**July 10, 2012**

However, prior to repairing, or demolishing the structure, please obtain the requisite permits from this office authorizing your proposed actions.

**If you are not satisfied with the Order, you may appeal same to the City Council by giving written notice to the City Clerk and myself within ten (10) days following issuance of the written order. However, should you not appeal, you must take the actions referenced above. Failure to comply with the Order will constitute a misdemeanor and you will be punished in the discretion of the court.**

**This is the**  5th **day of**  March**, 2012.**

 **Sincerely,**

 **Building Inspector**

### **March 5, 2012**

##### **Unsafe Building Code Violations For: 208 Roanoke Avenue (0905155)**

##### **Exhibit “A”**

1. **FACADE AT FRONT SIDE OF BUILDING IS DETERIORATED AND HAVING LOOSE BRICKS IN AREAS.**
2. **THE BUILDING HAS UNRESTRICTED ACCESS.**
3. **FIRE ESCAPE STAIRWAY AT REAR OF BUILDING IS NOT STRUCTURALLY SOUND.**
4. **RAZOR WIRE IS IMPROPERLY INSTALLED AT SIDE ENTRANCE/FIRE ESCAPE.**
5. **ROOF OF BUILDING IS COLLAPSING IN AREAS.**
6. **MOLD APPEARS TO BE PRESENT ON THE INTERIOR OF THE BUILDING.**
7. **INTERIOR CEILING COVERINGS IS FALLING IN AREAS.**
8. **STAIRCASE TO SECOND FLOOR IS NOT STRUCTURALLY SOUND.**
9. **INTERIOR FLOORING IS WATER DAMAGED, DETERIORATED AND COLLAPSING IN AREAS INCLUDING THE SECOND FLOOR.**
10. **ELECTRICAL SYSTEM APPEARS TO BE UNSAFE WITH EXPOSED ELECTRICAL WIRING IN AREAS.**

**NOTE: It is therefore ordered that you are required to:**

**Repair or remove unsafe conditions or demolish and remove the structure from the property by a date no later than May 4, 2012. If structure is to be repaired and not demolished and removed, the structure should be repaired, altered, or by improving the structure to correct all of the conditions and deficiencies noted in exhibit A attached hereto within the specified time frame.**

**However, prior to securing, repairing, or demolishing the structure, please obtain the requisite permits from this office authorizing your proposed actions**.

Motion was made by Councilman Bobbitt, seconded by Mayor Pro Tem Ferebee and unanimously carried to adopt the following ordinances:

ORDINANCE DIRECTING CITY ATTORNEY TO PETITION THE GENERAL COURT OF JUSTICE FOR AN ORDER REQUIRING THE OWNER OF CERTAIN PROPERTY TO COMPLY WITH THE ORDER OF THE BUILDING INSPECTOR: **206 ROANOKE AVENUE, (0900179)**

**16731**

**Roanoke Rapids City Council**

**July 10, 2012**

 **WHEREAS**, the City Council of the City of Roanoke Rapids finds that the structure herein described is unsafe and thereby constitutes a fire and safety hazard and is dangerous to life, health and other property and that all of the procedures of the Code of the City of Roanoke Rapids, North Carolina, have been complied with; and

 **WHEREAS**, the owner of this structure has failed to comply with a lawful Order of the Code Enforcement Official to demolish the same within the time therein prescribed; and

 **WHEREAS**, G. S. 160A-432 and Section 150.61 of the Code of the City of Roanoke Rapids, North Carolina, empowers the City of Roanoke Rapids to seek enforcement when an Order of the Code Enforcement Official is not complied with;

 **NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Roanoke Rapids that the City Attorney is hereby authorized and directed to proceed, as authorized by G. S. 160A-432, to petition the General Court of Justice of Halifax County for a petition requiring the owner, **Eric R. Bowman**, of the structure located at **206 Roanoke Avenue** in the City of Roanoke Rapids, North Carolina, to take such steps as may be necessary to comply fully with the Order of the Code Enforcement Official issued pursuant to the Unsafe Building Ordinance contained in Chapter 150 of the Code of the City of Roanoke Rapids, North Carolina.

This Ordinance shall become effective after its adoption.

ORDINANCE DIRECTING CITY ATTORNEY TO PETITION THE GENERAL COURT OF JUSTICE FOR AN ORDER REQUIRING THE OWNER OF CERTAIN PROPERTY TO COMPLY WITH THE ORDER OF THE BUILDING INSPECTOR: **208 ROANOKE AVENUE, (0905155)**

 **WHEREAS**, the City Council of the City of Roanoke Rapids finds that the structure herein described is unsafe and thereby constitutes a fire and safety hazard and is dangerous to life, health and other property and that all of the procedures of the Code of the City of Roanoke Rapids, North Carolina, have been complied with; and

 **WHEREAS**, the owner of this structure has failed to comply with a lawful Order of the Code Enforcement Official to demolish the same within the time therein prescribed; and

 **WHEREAS**, G. S. 160A-432 and Section 150.61 of the Code of the City of Roanoke Rapids, North Carolina, empowers the City of Roanoke Rapids to seek enforcement when an Order of the Code Enforcement Official is not complied with;

 **NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Roanoke Rapids that the City Attorney is hereby authorized and directed to proceed, as authorized by G. S. 160A-432, to petition the General Court of Justice of Halifax County for a petition requiring the owner, **Eric R. Bowman**, of the structure located at **208 Roanoke Avenue** in the City of Roanoke Rapids, North Carolina, to take such steps as may be necessary to comply fully with the Order of the Code Enforcement Official issued pursuant to the Unsafe Building Ordinance contained in Chapter 150 of the Code of the City of Roanoke Rapids, North Carolina.

This Ordinance shall become effective after its adoption.

**Consideration of Amendment to Section 110.11(B) “Schedule of License Taxes” of the Roanoke Rapids Code of Ordinances**

Finance Director Hite stated an amendment to Section 110.11(B) of the City Code is proposed to add a cap to the annual license fee charged for electronic gaming operations.

**16732**

**Roanoke Rapids City Council**

**July 10, 2012**

She stated we currently have four locations within the City limits that have a total of 146 machines.

Motion was made by Councilman Lawson to adopt the following ordinance:

**AN ORDINANCE TO AMEND CHAPTER 110 “BUSINESS LICENSES” OF THE ROANOKE RAPIDS CITY CODE OF 1991.**

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROANOKE RAPIDS, NORTH CAROLINA, that:**

**SECTION 1.** Section 110.11(B) “Schedule of License Taxes” of the Roanoke Rapids City Code of 1991 be amended to include a cap for electronic gaming operations to read as follows:

 ***Type of Business*** ***License Fee***

 Electronic Gaming Operation $2,000 for the first five machines/

 $1,000 for each additional machine

***Annual license fee for electronic gaming operations not to exceed $80,000 per location.***

**SECTION 2.** This Ordinance shall become effective upon adoption.

There being no second to the motion, Mayor Doughtie announced that the motion died for a lack of a second.

Interim City Manager Wyatt stated he hopes the Council will give some thought to continuing this matter until the next regular meeting. He stated this is a very important economic issue relative to our budget. He stated this matter was taken into consideration in the adoption of this year’s budget.

Councilwoman Scarbrough stated she did not realize that this was a part of our budget.

Mayor Pro Tem Ferebee expressed his concern about how this relates to the current budget.

Mr. Wyatt stated we do not want to come in under budget.

Finance Director Hite stated the budgeted amount for business licenses is $192,000 and we have received $162,000 so far. She stated staff is just requesting a cap of $80,000 per location.

Councilman Lawson stated this cap would be fair to everyone. He stated we are not being hoggish.

Motion was made by Councilwoman Scarbrough and seconded by Councilman Bobbitt to reconsider the earlier motion to adopt the amendment to the Code of Ordinances.

**16733**

**Roanoke Rapids City Council**

**July 10, 2012**

Upon being put to a vote, Councilwoman Scarbrough, Councilman Bobbitt, Councilwoman Cowen and Councilman Lawson voted in favor of the motion to reconsider the earlier motion. Mayor Pro Tem Ferebee voted against the motion.Mayor Doughtie declared the motion carried by a 4 to 1 vote.

Motion was made by Councilwoman Scarbrough and seconded by Councilman Bobbitt to adopt the following ordinance:

**AN ORDINANCE TO AMEND CHAPTER 110 “BUSINESS LICENSES” OF THE ROANOKE RAPIDS CITY CODE OF 1991.**

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROANOKE RAPIDS, NORTH CAROLINA, that:**

**SECTION 1.** Section 110.11(B) “Schedule of License Taxes” of the Roanoke Rapids City Code of 1991 be amended to include a cap for electronic gaming operations to read as follows:

 ***Type of Business*** ***License Fee***

 Electronic Gaming Operation $2,000 for the first five machines/

 $1,000 for each additional machine

***Annual license fee for electronic gaming operations not to exceed $80,000 per location.***

**SECTION 2.** This Ordinance shall become effective upon adoption.

Upon being put to a vote, Councilwoman Scarbrough, Councilman Bobbitt, Councilwoman Cowen and Councilman Lawson voted in favor of the foregoing motion. Mayor Pro Tem Ferebee voted against the motion. Mayor Doughtie declared the motion carried by a 4 to 1 vote.

Motion was made by Councilman Lawson, seconded by Councilwoman Cowen and unanimously carried to go into closed session as allowed by NCGS 143-318.11(a)(6).

**[Remainder of page intentionally left blank.]**

**Minute Book Pages 16734, 16735, 16736 and 16737 contain Minutes and General Account of a Closed Session which have been sealed until such time as public inspection of those minutes would not frustrate the purpose of the Closed Session.**

**16738**

**Roanoke Rapids City Council**

**July 10, 2012**

Motion was made by Councilman Lawson, seconded by Councilman Bobbitt and unanimously carried to return to open session.

Mayor Doughtie reconvened the meeting in open session.

In closed session, City Council conducted a second interview of Candidate No. 24 for the City Manager’s position. No action was taken.

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

 

 8/14/12