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**Roanoke Rapids City Council**

**March 12, 2013**

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.

Carl Ferebee, Mayor Pro Tem

Ernest C. Bobbitt)

Greg Lawson)

Carol H. Cowen)

Lisa B. Vincent, MMC, City Clerk

Gilbert Chichester, City Attorney

Emery G. Doughtie, Mayor

Suetta S. Scarbrough, Council Member

Joseph Scherer, MPA, MS, City Manager

Mayor Pro Tem Ferebee called the meeting to order and Councilman Lawson opened the meeting with prayer.

Mayor Pro Tem Ferebee called Council’s attention to the Conflict of Interest statement in the agenda packet. He also indicated that the business agenda needs to be amended to add a closed session as allowed by NCGS 143-318.11(a)(3).

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 March 12, 2013 as amended.

Motion was made by Councilwoman Cowen, seconded by Councilman Bobbitt and unanimously carried to approve Council Minutes dated February 5, 2013 *(Work Session)* and February 12, 2013 *(Regular Meeting)*.

Deputy Police Chief Hathaway reported that St. John the Baptist Catholic Church, located at the corner of Ninth and Hamilton Streets, is requesting two hour parking on both sides of Ninth Street between Hamilton and Washington Streets in order to provide parking for the elderly members of the Church that attend morning mass.

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Deputy Police Chief Hathaway pointed out that staff has spoken with the School Resource Officer and the School has no issues with this change.

Motion was made by Councilman Lawson, seconded by Councilman Bobbitt and unanimously carried to adopt the following ordinance:

***AN ORDINANCE TO AMEND THE TRAFFIC CODE OF THE CITY OF ROANOKE RAPIDS, NORTH CAROLINA.***

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

***SECTION 1.*** The Roanoke Rapids Traffic Code is amended to install “Two Hour Parking” Signs on both sides of Ninth Street from Hamilton Street east to Washington Street.

***SECTION 2.*** This Ordinance shall become effective upon the installation of the appropriate signage.

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

March 5, 2013

To: Joseph Scherer, City Manager

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

**Re: 1009 Franklin Street (Parcel# 0903015): ORDER TO DEMOLISH AND REMOVE DWELLING**

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

* ***July 27, 2012*** – Minimum Housing Code Enforcement Officer Donald Tart performed an exterior only inspection of the dwelling. The dwelling was noticed to be unsecure and having several Minimum Housing Code violations on the exterior of the dwelling.
* ***July 30, 2012*** – The Code Officer contacted Mrs. Dianne E. Norton, a party of interest, concerning the property to address the violations. Mrs. Norton advised Mr. Tart to send all correspondence to Moseley, Elliott & Dickens, L.L.P. (Attorneys At Law). Correspondence and an e-mail were sent in c/o Bradley Elliott requesting that the dwelling be secured and to contact the Code Officer regarding the maintenance and repair of the dwelling. The owner is given the opportunity to secure the dwelling and bring the dwelling into compliance with the Minimum Housing Code with no further action required by the Code Officer. **Mr. Elliott responded by e-mail to advise that the Law Firm did not represent the estate. He also advised that Ms. Norton had discussed this matter with Mr. Wendell Moseley in years past and has decided not to pursue the administration of the estate due to a large Medicaid lien that overwhelms the value of the property. Mr. Elliott advised that based on the foregoing, it appeared that the City or Medical Recovery will have to take the steps to have the property either sold or at least rendered safe for the public health.**

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* ***October 3, 2012*** – A Formal letter was mailed to the owner and parties of interest to request that the dwelling be secured. The Formal letter also gave notice that the Formal Process was moving forward and that a Notice of Hearing will be sent in approximately ten (10) days. **Formal research began at the Halifax County Register of Deeds and Clerk of Court’s Office.**
* ***October 5, 2012*** – Formal research was completed at the Halifax County Register of Deeds and Clerk of Court’s Office. Alice G. Everette was found to be the listed owner by a deed dated April 28, 1953 and recorded in Book 601, page 53 Halifax Public Registry. A Death Certificate was found recorded for the owner (Alice Garner Everette) and showing that the Date of Death for the owner was recorded as September 2, 2005. There was no Will found to have been admitted for probate.
* ***October 15, 2012*** – Hearing notice was posted on dwelling and mailed via certified and regular mail to owner(s), **(parties of interest)**. Hearing was scheduled to be held on 11-14-12 at 10:30 a.m.
* ***October 22, 2012*** – ***Hearing Notice mailed to the owner(s), (parties of interest) by Certified Mail is recorded as delivered.***
* ***November 14, 2012*** – The Hearing was held at 10:30 a.m. with Code Enforcement Supervisor Brian Duhadaway, Minimum Housing Code Enforcement Officer Donald Tart and party of interest Dianne Everette Norton. At this time, a detailed visual inspection of the exterior and interior was made. A list of all observed Minimum Housing violations is made. After the inspection, it was determined that the cost of the repairs to bring the dwelling up to Minimum Housing Code would be greater than 50% of the current tax value of the dwelling. The current tax value of the dwelling is **$14,750** with the repairs estimated at **$18,500.**
* ***November 28, 2012*** – The Findings of Fact was sent with an Order that the owner shall bring the dwelling into compliance with the Minimum Housing Code by demolishing and removing the dwelling from the property or by repairing, altering or by improving the structure to correct all of the conditions and deficiencies noted in the attached Exhibit A by a date not later than the **26th day of February, 2013.** Mailing is by Certified and Regular mail to the owner. The notice was posted to the dwelling.
* ***December 3, 2012*** – **The Findings of Fact notice mailed to the owner(s), (parties of interest) by Certified Mail is recorded as delivered.**
* ***January 14, 2013*** – The Code Officer followed up on a complaint concerning the unsecured dwelling and sent a second letter requesting to secure the dwelling to restrict access by **January 28, 2013** to avoid further action.
* ***January 16, 2013*** – The Code Officer was advised by party of interest Dianne Everette Norton that she had received the letter requesting that the dwelling be secured. She advised the Code Officer to do whatever necessary to secure the dwelling that everyone had been given notice and time to remove their belongings.
* ***January 30, 2013*** – The Code Officer requested that the Planning Department take action to secure the dwelling and charge for administration fees, material and labor required to do so. **The Public Works Department secured the dwelling at a total cost of** **$517.48.**
* ***February 15, 2013*** – A letter was sent reminding owner of the upcoming deadline of **February 26, 2013** to have the dwelling repaired, or demolished and removed.
* ***February 27, 2013*** – Re-inspection was performed and repairs had not been made to bring the dwelling up to code nor had the dwelling been demolished and removed. **(Request is made to**

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**the City Tax Collector requesting to bill the owner and/or to take other appropriate actions as required to recover the cost of $517.48 to secure the dwelling from the owner, Alice G. Everette).**

* ***February 28, 2013*** – Request is made to the City Manager for review and action by the City Council. (It has been **106 days** since the Hearing was conducted at the dwelling).
* ***March 01, 2013*** – A letter was sent to the owners to give notice of the scheduled City Council meeting on ***March 12, 2013*** to consider a request for City Council to adopt an Ordinance directing the Code Enforcement Officer to demolish and remove the dwelling located 1009 Franklin Street Roanoke Rapids, N. C.
* The 2013 assessed tax value for this dwelling is **$14,750.**
* **$517.48** is owed for securing the dwelling.
* **$2,061.00** is owed for lot cutting for **2012.**
* Taxes in the amount of **$2,164.44** are owed for the tax years of **2008-2012.**

**\*NOTE:** Owed taxes are in question due to **Estimated Tax Bill Discovery Amount** has not been billed.

**Staff Recommendation**

We have determined the dwelling to be in a **Dilapidated** condition as defined by the Minimum Housing Code. The staff has properly accomplished the required procedures and the owner has failed to comply with the Official’s Order.

**Requested Action**

We are requesting City Council adopt an Ordinance directing the Code Enforcement Officer to demolish and remove the dwelling located at 1009 Franklin Street, Roanoke Rapids, N. C. with a lien to be placed against the real property upon which the costs of removal are incurred.

#### “EXHIBIT A” from Findings of Fact 11-14-12

### CHECKLIST OF VIOLATIONS FOUND DURING INSPECTION OF 1009 Franklin St.

1. All electrical alterations or new installations should be made in accordance with the NEC 2012 Electrical Code. Inspection must be made by the electrical inspector before ceiling and wall covering can be installed.
2. Replace Missing Electric Panel Box making sure there is no exposed electrical wiring and make sure it is properly labeled as required.
3. Disconnect and remove all unused or improper electrical wiring making sure there is no exposed electrical wiring.
4. Provide wall switches to control wall or ceiling lighting outlets to eliminate all pull cords.
5. Provide light fixture for stairway controlled by wall switches located at the upper and lower level of the stairway.
6. Replace all missing/damaged wall switch and outlet covers.
7. Make sure a properly installed handrail is provided for stairway.
8. Install approved (UL 217) smoke detectors in proper locations as required on both levels of the dwelling.
9. All damaged/deteriorated flooring and sub-flooring in the dwelling must be repaired or replaced, making sure they are structurally sound.
10. All flooring coverings must have a surface that can be cleaned and sanitized as needed including hardwood floors.
11. Replace/repair areas of the ceiling found to be damaged or falling.

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1. Make sure all interior floors, walls, and ceiling coverings are free from holes.
2. Replace all missing molding strips as needed for floors and ceiling coverings.
3. Replace/repair all damaged door facing and door jambs for interior doors.
4. All interior doors must be provided with proper hardware, bathroom doors must be provided with privacy hardware.
5. Replace all missing windows including, (frames, sills, etc.).
6. Replace all broken/missing windowpanes and replace any missing or damaged glazing.
7. Make sure existing windows are weathertight, watertight and rodent proof and capable of being easily opened and secured in position by window hardware.
8. Make sure water heater is in good working order, (properly wired with no exposed wiring and the plumbing connections with no leaks).
9. Make sure every plumbing fixture and water and waste pipe are properly installed and maintained in good sanitary working condition free from defects, leaks, obstruction and rodent proof.
10. Every dwelling unit shall contain not less than a kitchen sink, lavatory, tub or shower, and a **water closet** all in good working condition and properly connected to an approved water and sewer system. Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition free from defects, leaks, obstruction.
11. Provide a food preparation surface impervious to water and free of defects which can trap food or liquid.
12. Provide shelving, cabinets, or drawers for the storage of food and cooking and eating utensils that are in good condition.
13. Provide a freestanding or permanently installed cookstove.
14. Provide mechanical refrigeration equipment for the storage of perishable foodstuffs.
15. All dwellings must be supplied with a permanent source of heat that heats dwelling to a temperature of (68 degrees) at a level at least 3 feet above the floor under minimal winter conditions.
16. Repair damaged chimney in area of vent pipe connection.
17. Have chimney inspected making sure there is no obstructions and being in good working condition.
18. Scrape all peeling paint on the interior of dwelling as needed and make sure it is clean and sanitized.
19. Scrape all peeling paint on the exterior of the dwelling and repaint as needed.
20. Make sure chimney is in good repair and not having loose flashing, bricks or mortar joints.
21. Repair or replace all loose/damaged roof structure including any loose roofing material (sheathing, shingles, tin,) etc.
22. Replace missing or deteriorated fascia, soffit or boxing.
23. Replace or repair all broken, loose or missing exterior siding on the dwellings exterior in areas as needed.
24. Make sure there are no holes in the exterior siding.
25. Provide window screens at all windows that are without open rips or tears.
26. Provide screen doors at all exterior doors that are without open rips or tears.
27. Replace damaged/missing exterior doors and make sure all existing exterior doors are weathertight, watertight, and rodent proof and are kept in sound working condition and good repair.
28. Every exterior door shall be provided with properly installed hardware that is maintained to insure reasonable ease of operation to open, close and secure in an open or closed position.
29. Replace/repair rear door steps making sure they are structurally sound.
30. Make sure front/rear porch decking is in sound condition, in good repair and is water resistant, (including decorative boards).
31. Replace missing foundation vents and close all openings in the foundation walls and make sure it is watertight and rodent proof.
32. Provide a foundation access door that is secure and rodent proof.
33. Demolish and remove the unsafe outbuilding located at the rear of the dwelling.
34. Remove fallen tree at the rear of the dwelling that has fell on the outbuilding and against the dwelling.

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1. To avoid Municipal Code Violation Fines please keep the grass cut, remove volunteer overgrowth and trash at all times.

**\*NOTE\***

**No alteration to the dwelling is to occur prior to obtaining the requisite building and trade permits (which may require the use of contractors licensed by the State of North Carolina) from the office of the Roanoke Rapids Department of Planning and Development.**

Mayor Pro Tem Ferebee asked if the owner decided that the Medicaid lien was too great for the property. He asked which lien would be paid first.

Planning & Development Director Lasky pointed out that the owner is deceased but one of the heirs advised staff to proceed with the demolition process. She pointed out that she is not sure the priority of the liens but it would be a lien against the property.

Mayor Pro Tem Ferebee asked Ms. Lasky about an approximate cost for the demolition.

Planning & Development Director Lasky stated they bid it out but the typical cost is approximately $7,000 which they have in the budget.

Motion was made by Councilman Bobbitt, seconded by Councilman Lawson and unanimously carried to adopt the following ordinance:

**ORDINANCE DIRECTING THE CODE ENFORCEMENT OFFICER TO DEMOLISH AND REMOVE PROPERTY AS UNFIT FOR HUMAN HABITATION AND DIRECTING THAT A NOTICE BE PLACED THEREON THAT THE SAME MAY NOT BE OCCUPIED: 1009 Franklin Street, Roanoke Rapids, N.C. Parcel# 0903015**

**WHEREAS,** the City Council of the City of Roanoke Rapids finds that the dwelling described herein is dilapidated and unfit for human habitation under the provisions of the Housing Code, and that all of the procedures of the Code of the City of Roanoke Rapids, North Carolina, have been complied with; and

**WHEREAS,** this dwelling should be removed or demolished, as directed by the Code Enforcement Official, and should be placarded by placing thereon a notice prohibiting the use for human habitation, in that the costs of repairs needed to bring it into compliance with the minimum housing code exceeds **50%** of the current value of the dwelling; and

**WHEREAS,** the owner of this dwelling has been given a reasonable opportunity to bring the dwelling up to the standards of the Housing Code pursuant to an Order issued by the Code Enforcement Official and the owner has failed to comply with the lawful Order of the Code Enforcement Official to repair or demolish the property within the time therein described; and

**WHEREAS,** G. S. 160A-443 (5) and Chapter 152 of the Code of the City of Roanoke Rapids, North Carolina, empowers the City of Roanoke Rapids to have its Code Enforcement Official to remove or demolish a dwelling when an Order of the Code Enforcement Official has not been complied with;

**NOW, THEREFORE, BE IT ORDAINED** by the City Council of the City of Roanoke

Rapids that:

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**March 12, 2013**

**Section 1.** The Code Enforcement Official is hereby authorized and directed to place a placard containing the legend:

“This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful.”

on the building located at **1009 Franklin** **Street**, in the City of Roanoke Rapids, North Carolina.

**Section 2.** The Code Enforcement Official is hereby authorized and directed to vacate the dwelling of all occupants and to remove or demolish the dwelling, said dwelling being located at **1009 Franklin Street** in the City of Roanoke Rapids North Carolina, and owned by **Alice G. Everette.** In accordance with the Order of the Code Enforcement Official issued pursuant to the Minimum Housing Ordinance contained in Chapter 152 of the Code of the City of Roanoke Rapids, North Carolina.

**Section 3. (a)** The cost of removal or demolition shall constitute a lien against the real property upon which the cost was incurred. The lien shall be filed in the office of the City Tax Collector, and shall have the same priority and be collected in the same manner as the lien for special assessments in Article 10 of G. S. Chapter 160A.

**(b)** Upon completion of the required removal or demolition, the Building Inspector shall sell the materials of the dwelling and credit the proceeds against the cost of removal or demolition. The Code Enforcement Official shall certify the remaining balance to the Tax Collector. If a surplus remains after sale of the materials and satisfaction of the cost of removal or demolition, the Code Enforcement Official shall deposit the surplus in the Superior Court where it shall be secured and disbursed in the manner provided by G. S. 160A-443 (6).

**Section 4.** It shall be unlawful for any person to remove or cause to be removed the placard from any building to which it is affixed. It shall likewise be unlawful for any person to occupy or to permit the occupancy of any building therein declared to be unfit for human habitation.

**Section 5.** If the owner of the property should either demolish the dwelling at his own expense, or if, in the opinion of the code enforcement officer, the owner has rehabilitated the dwelling to the extent that it meets or exceeds the requirements of the minimum housing code prior to the time scheduled for demolition under this ordinance, then the City Manager is authorized to rescind this demolition order without further action by the City Council.

**Section 6.** This Ordinance shall become effective **immediately** after its adoption.

Assistant Parks & Recreation Director Manning stated the City has received an offer to purchase the Hodgestown Day Care Center located at 120 Wyche Street. She indicated that Mr. and Mrs. Ray Ramsey, the current tenants of the property, have submitted an offer in the amount of $125,000.00. She stated a copy of the offer is included in the Council’s agenda packet. Ms. Manning stated if Council desires to consider acceptance of the offer, a resolution is required to declare the property as surplus and to authorize the Clerk to proceed with the upset bid process as outlined in NCGS 160A-269.

Mayor Pro Tem Ferebee stated there are other properties near the day care center. He asked if the boundaries are clear.

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Assistant Parks & Recreation Director Manning stated it is her understanding that the property under consideration includes just the day care center and associated parking lot. She stated this does not include the MLK Park.

Motion was made by Councilman Lawson, seconded by Councilman Bobbitt and unanimously carried to adopt the following resolution:

**RESOLUTION AUTHORIZING THE ADVERTISEMENT**

**OF AN OFFER TO PURCHASE CERTAIN PROPERTY**

**WHEREAS,** the City Council of the City of Roanoke Rapids desires to dispose of certain surplus property of the City;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Roanoke Rapids that:

1. The following described property is hereby declared to be surplus to the needs of the City:

**Hodgestown Day Care Center, 120 Wyche Street.**

2. The City Council has received an offer to purchase for the sum of $125,000.00 the property described above.

3. The City Council proposes to accept the offer unless an upset bid shall be made.

4. The person making the offer must deposit with the City Clerk a sum equal to five percent (5%) of his or her offer.

5. The City Clerk shall cause a notice of such offer to be published in accordance with G.S. 160A-269.

6. Persons wishing to upset the offer must submit a sealed bid to the City Clerk within ten (10) days after publication of the notice. The person making the bid must raise the bid that is being considered by at least ten percent (10%) of the first $1,000.00 and five percent (5%) of the remainder. Once a qualifying upset bid has been received, that bid will become the new offer.

7. The City Clerk is directed, should a qualifying upset bid and deposit be received within ten (10) days from the publication of said notice in accordance with G.S. 160A-269, to re-advertise the offer at the increased upset bid amount.

**ADOPTED** this the 12th day of March, 2013.

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

Emery G. Doughtie, Mayor

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ATTEST:

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

Lisa B. Vincent, City Clerk

Motion was made by Councilman Bobbitt, seconded by Councilman Lawson and unanimously carried to go into closed session as allowed by NCGS 143-318.11(a)(3).

City Attorney Chichester requested that Planning & Development Director Lasky and Public Works Director Chalker participate in the closed session. There was no objection.

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

**Minute Book Pages 16946 through 16948 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.**

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

City Attorney Chichester briefed Council on a property matter in closed session. No action was taken.

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

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4/9/13