



Minutes of the Roanoke Rapids City Council

A regular meeting of the City Council of the City of Roanoke Rapids was held on **Tuesday, September 3, 2019 at 5:15 p.m.** in the Council Chambers at the Lloyd Andrews City Meeting Hall.

Present: Emery G. Doughtie, Mayor
Carl Ferebee, Mayor Pro Tem
Ernest C. Bobbitt)
Suetta S. Scarbrough)
Wayne Smith)

Council Members

Joseph Scherer, MPA, MS, City Manager
Gilbert Chichester, City Attorney
Traci Storey, City Clerk
Leigh Etheridge, Finance Director
Kathy Kearney, Deputy City Clerk/Human Resources Manager
Bobby Martin, Police Chief
Kelly Lasky, Planning & Development Director
John Simeon, Parks & Recreation Director
Larry Chalker, Public Works Director
Jason Patrick, Fire Chief

Absent: Christina Caudle, Main Street Director

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

Adoption of Business Agenda

Mayor Doughtie asked Council members about any known conflicts of interest with respect to the matters before them this evening.

There being no conflicts, a motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried to adopt the business agenda for September 3, 2019 as presented.

Special Recognitions

Fire Department (Helen Reed's Retirement)

Chief Patrick stated Helen Reed retired June 30, 2019 with 28 years with the City of Roanoke Rapids. She began her career with the City of Roanoke Rapids as part-time custodian with the Public Works Department on February 14, 1991. She became a full-time secretary in the same department on February 1, 1993 and Ms. Reed continued to work in the Public Works Department where she became the Administrative Support Assistant I in January 1996. On June 26, 2005, she was transferred to the Fire Department as the Administrative Support Assistant II. He said she was the perfect person for that position. She is known to most of the department as Chief Reed. Ms. Reed has worked through many outreach programs and has been a great asset when it comes to the department's Annual Fire Safety Fair. He noted this year was the 5th year and they had a tremendous turnout; it was one of the biggest ones they have had thus far. She is behind all the sponsorships, donations, food and works behind the scenes. She does a great job and doesn't want any credit for it. He said Ms. Reed steps up and works whenever possible and wherever she is needed. She has gone above and beyond to keep the department straight at the station and makes sure everyone feels welcome when they visit. She has been a mother, a friend, a confidant and they have been fortunate to have her as their coworker. They are blessed she has been able to return part-time right now through some sickness that they have within the department. She is helping out a day or so a week with some administrative duties. He called Ms. Reed up to the podium and asked for Chief Hux to help him with the presentation.

Chief Patrick added Ms. Reed represents the Red Cross in this area. She is someone we can reach out to when there is a fire in our area. She will come and help the families that have lost everything in a fire. He recalled the recent fire on Allen Avenue which happened on a Sunday. Ms. Reed was at church, but came out in her high heels to help the family get situated.

Chief Patrick presented Ms. Reed with a plaque in recognition of her distinguished and dedicated service to the City of Roanoke Rapids. Chief Patrick noted that when a firefighter retires they are presented their fire helmet and badge. Ms. Reed was different because she did not have a fire helmet so they brainstormed to come up with something special for her. He said Ms. Reed is very faithful and she has done a lot to help many of them during tough times. They presented her with a Bible engraved with Roanoke Rapids Fire Department, 28 years of service and on the inside all the names of the firemen were listed.

Ms. Reed thanked them for everything. She said they joke around a lot about loving one another, but she thinks they really believe it because they have shown it towards one another. She said she was grateful for this night. She said they all know she loves the Lord and she quotes scriptures to them.

Approval of Council Minutes

Motion was made by Councilman Smith, seconded by Councilwoman Scarbrough and unanimously carried to approve the August 20, 2019 Regular Council Meeting Minutes as drafted.

City Council Appointments

Recreation Advisory Committee

City Clerk Storey said the terms for Margaret Clark, Artie Jones and Todd Lockamon on the Recreation Advisory Committee will expire on September 9, 2019. All three have served the maximum number of 2 consecutive terms allowed by City policy. Council has the authority – and has done so in the past – to waive this section of the policy. She reported Council took a ballot vote earlier and all candidates received a unanimous vote to be reappointed.

Councilman Smith asked Attorney Chichester since the City is not having the volunteers to volunteer for these committees and they always have to waive the policy, was it within the City Council's authority to take the word waiver out of the policy and still have the 2 term policy instead of having to waive it every time. Attorney Chichester replied he believed that could be crafted to accomplish what he was saying if City Council wanted to do that. He stated the way it was worded now, the policy would have to be waived to go beyond that. He and the City Manager could propose an ordinance that would not require a waiver if someone wanted to serve more than 2 terms. He asked Councilman Smith if he would like them to look in to that. Councilman Smith said he would.

Councilwoman Scarbrough asked if that would leave unlimited terms for that person. Attorney Chichester replied the person would not be appointed for the rest of their life. It could be for a 2 term limit but it would not require a waiver to be reappointed.

Mayor Doughtie stated the whole problem is that we do not have people wanting to step up and fill these positions so the people that are in it are asked if they would continue to do it. We need people to have more interest in the things that are going on in the city. We need people on these committees so they can give us some ideas about things they would like to have happen. The City has been asked in the past if we advertise for these positions and we do.

Councilman Smith asked Parks & Recreation Director Simeon about doing this. Parks & Recreation Director Simeon replied in reference to the question he asked Attorney Chichester he would also agree. He said the committees are very valuable to his department. The citizen input has been well received and has helped them with policy within the Parks & Recreation Department.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried to waive the City policy regarding terms and reappoint Margaret Clark, Artie Jones and Todd Lockamon to the Recreation Advisory Committee.

Roanoke Canal Commission

City Clerk Storey said the term for Julia Ann Fitts on the Roanoke Canal Commission expired in July. Ms. Fitts has expressed interest in serving another term on the Commission. She has served the maximum number of 2 consecutive terms allowed by City policy but City Council has the authority – and has done so in the past – to waive this section of the policy. She reported a ballot vote was taken earlier and Ms. Fitts received a unanimous vote to be appointed.

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried to waive the City policy on terms and reappoint Julia Ann Fitts to the Roanoke Canal Commission.

Public Hearing

Rezoning Request (Leonard Love – Properties addressed as 205, 207 and 209 Mullen Drive from R-6 Residential to B-4 Commercial District

Planning & Development Director Lasky stated the public hearing did not require any sworn testimony but Council can receive comments from any citizens that desire to speak as it relates to the rezoning request.

Mayor Doughtie opened the public hearing.

Planning & Development Director Lasky presented the following report and made a PowerPoint presentation:

Rezoning Request (map attached) – Leonard Love is requesting an amendment to the Roanoke Rapids Zoning Map to rezone properties addressed as 205, 207 and 209 Mullen Drive, Halifax Co. Parcels 0904738 (0.243± acre), 0906312 (0.232± acre) and 0902191 (0.218± acre) from R-6, Residential District to B-4, Commercial District. Located on the 205 Mullen Dr. parcel is a single-family house, along with two (2) accessory buildings in which the applicant operates a vehicle repair business.

Date: August 6, 2019

Summary Overview

Subject Property *205 Mullen Drive has 67 feet of road frontage on the west side of Mullen Drive and a depth of 158 feet.*
 207 Mullen Dr. has 64 feet of road frontage on the west side of Mullen Dr. and a depth of 158 feet.
 209 Mullen Dr. has 60 feet of road frontage on the west side of Mullen Dr. and a depth of 158 feet.

<i>Proposal</i>	<i>Rezone from R-6 Residential District to B-4, Commercial District.</i>
<i>Applicant</i>	<i>Leonard Love</i>
<i>Property Owner</i>	<i>Leonard M. Love and Julie E. Love</i>
<i>Present Use</i>	<i>Vehicle repair shop</i>
<i>Proposed Use</i>	<i>Vehicle repair shop</i>
<i>Staff Recommendation</i>	<i>Deny.</i>

WHEN EVALUATING A REZONING REQUEST, IT IS APPROPRIATE TO CONSIDER ALL PERMISSIBLE USES IN THE REQUESTED ZONING DISTRICT. CITY COUNCIL CANNOT SPECIFICALLY LIMIT WHICH USES ARE ALLOWED (OR NOT) AS A RESULT OF ANY REZONING CONSIDERATION.

CONSIDER IMPACT ON/FROM:

- POTENTIAL USES
- NEIGHBORS
- GENERAL PUBLIC
- TRAFFIC
- UTILITIES
- NEIGHBORHOOD CHARACTER
- SCHOOLS

OMIT FROM CONSIDERATION: <ul style="list-style-type: none"> • ETHNICITY • RELIGION • INCOME • RENT OR OWN



Figure 1 Aerial Image of Subject Property

Analysis and Detail:

1. Applicant and Property Owner

The applicant is Leonard Love. A Deed recorded on February 1, 2019, shows a change in the owner-ship of 205 Mullen Drive from Michael M. Love to that of Leonard M. Love and wife, Julie E. Love with an address listed as 710 Liles Road, Littleton, NC 27850.

A Deed dated July 1, 2019, records a transfer in ownership of 207 and 209 Mullen Drive from Premier Land, LLC, to William Joseph Love. According to Leonard Love paperwork is being processed to obtain ownership of this property, and a Deed is expected to be recorded soon.

2. Location/Area Description

Mullen Drive is a north-south oriented, one block street in the City's Planning and Zoning jurisdiction. The subject lots, 205, 207 and 209 Mullen Drive, are located on the west side of Mullen Drive. (*See Figure 1, p. 2*)

The 0.693± acre property requested for rezoning has 191 feet of Mullen Drive frontage. Across the street is the Premier Landing shopping center containing a Walmart store. Mullen Drive connected northward to Julian R. Allsbrook Highway prior to the creation of Premier Landing, but was closed off when Premier Boulevard was created in the early 2000's. At the south end of Mullen Drive is Chockoyotte Park. Cypress Drive connects Mullen with Wheeler Street adjacent to the Park and Strickland Street connects Mullen and Wheeler at Mullen's north end. There are 4 houses on Mullen Drive, all built between 1949 and 1955, with 2 without tenants and in disrepair. The house at 205 Mullen has a size of 1,152 sq. ft. All other houses are 700 to 900 sq. ft. in size.

3. Existing and Proposed Zoning

The Roanoke Rapids Zoning Map identifies the existing zoning classification of the area being considered for rezoning as R-6, Residential District, along with the rest of this block and Chockoyotte Park. The zoning map shows that once you cross Strickland Street heading north toward J. R. Allsbrook the zoning is B-4, Commercial District. From a planning perspective, this zoning change will not disrupt zoning continuity, and will be following a development pattern that is suitable for this area. (*See Figure 2, below*)

The rezoning request is a change from R-6 (beige color), Residential District to B-4 Commercial District (red color).

Figure 2 Roanoke Rapids Zoning Map Excerpt



B-4: This district is designed to accommodate the widest range of commercial activities.

The uses allowed in each zoning district are identified in Section 151-149 Table of Permitted Uses of the City of Roanoke Rapids Land Use Ordinance.

The following provides general descriptions of the existing and proposed zoning districts:

The subject property is proposed to be zoned B-4, Commercial District:

B-4: *designed to accommodate the widest range of commercial activities with no minimum lot density based on square footage, however minimum lot widths are established at 70 feet. Setbacks from the street right-of-way property line are 20 feet and the distances from other property lines are determined by the rating of the exterior wall of construction.*

The subject property existing zoning is R-6, Residential District:

R-6: *designed to accommodate single-family and two family dwelling units, with minimum lot sizes of 6,000 square feet and lot widths of 50 feet.*

ANY PROPOSED CONSTRUCTION AND SITE PLANS ARE EVALUATED BY CITY STAFF AND THE DEVELOPMENT REVIEW COMMITTEE TO ENSURE A PROPER DESIGN. THE DEVELOPMENT REVIEW COMMITTEE INCLUDES THE SANITARY DISTRICT, NCDOT, PUBLIC WORKS, NC DOMINION POWER OR ROANOKE ELECTRIC, FIRE DEPARTMENT AND CODE ENFORCEMENT.

4. Traffic Considerations

Traffic considerations are generally evaluated when development is presented and a site development plan officially submitted for review. The North Carolina Department of Transportation (NCDOT) regulates placement of access and driveway permitting for properties on state roads, and NCDOT Highway Division 4, District 1 District Engineers would be responsible for access approval from state roads to the subject site.

The Applicant has stated that the current use of the property is for a vehicle repair business, involving primarily the reconditioning of used vehicles into a state of near-new, high performance. At such time as a development proposal is presented, such development review may include NCDOT review for traffic concerns.

5. Utility Considerations

There are no specific utility considerations that should negatively impact this property at the present time. The area is served with electricity by Dominion Power. Roanoke Rapids Sanitary District water and sewer utilities serve adjacent properties. A determination would need made, should there be an expansion of use, if there is adequate flow, pressure and quality to support any proposed development. All connections, extensions and responsibilities for services will be the responsibility of a developer.

6. Other Considerations

Future development of the site will be evaluated for appropriate **screening, drainage, stormwater retention/detention** and other items during the site plan and/or construction plan review process by the Development Review Committee. Opaque screening between potential commercial uses and existing residential uses will be required at the burden of the commercial developer. The ordinance requires opaque screening from the ground to a height of at least eight feet, which may be a wall, fence, landscaped earth berm, planted vegetation or existing vegetation.

The subject property is located in the City of Roanoke Rapids Fire Department service area. Future development of the site will be evaluated for adequate water supply for firefighting operations and that driveways meet the requirements for apparatus ingress/egress.

7. Comprehensive Development Plan

The property is located within the City Limits and the Planning & Zoning Jurisdiction. The following implementing strategies may be considered from the City of Roanoke Rapids Comprehensive Plan, adopted by City Council on June 17, 2014:

I.1 Support infill development.

I.18 Utilize the mixed use areas as a tool to aid in regulating/ reducing strip commercialization, stimulate compact development, encourage infill development, reduce trip generation, provide flexible development options, and utilize existing infrastructure.

I.20 Encourage developers to utilize thoroughfares and natural topographic features to define the boundaries of a neighborhood and concentrate higher intensity uses at the outer boundaries of the neighborhood.

I.32 Protect, enhance, and encourage a high quality of life, image, and cultural amenities as an effective approach to economic development.

I.25 The city Planning board may consult this plan concerning all decisions, including rezoning and subdivision approvals, which will affect residential land use, including impact on existing residential areas.

I.33 Economic development efforts should encourage the revitalization and reuse of currently unused or underutilized structures, sites, and infrastructure in appropriately located areas.

8. Public Response to Notice

The public hearing was initially scheduled for August 6, 2019, but the City Council did not meet due to absence of a quorum. Notice of the meeting change was sent to affected property owners, letters were sent to owners of property within 100-feet of the requested rezoning on August 7, 2019. One letter of citizen comment was submitted ***and attached to this memorandum:***

Attachment #2: letter from Constance S. Tudor, 204 Wheeler St., property owner

9. Staff Comments

The proposed request for rezoning is considered to be somewhat reasonable. Reasonableness is determined by considering the size and nature of the tract, any special conditions or factors regarding the area, the consistency of the zoning with the land use plan, the degree of the change in the zoning, the degree it allows uses different from the surrounding area, and the relative benefits and/or detriments for the owner, the neighbors, and the surrounding community.

Planning and Development Staff finds the proposed rezoning request to be consistent with the area land uses and reasonably in in line with the Comprehensive Plan. Based on context and nearby land uses staff had requested that the rezoning be recommended to the City Council for approval.

The courts have established the following factors to determine the reasonableness of spot zoning:

- 1. *The size and nature of the tract.*** Planning Staff has determined that the size and characteristics of the site make it more likely to be reasonable to rezone. The site is 3 small parcels in a neighborhood with a variety of residential and commercial uses. The site has access to utilities and a relatively flat topography.
- 2. *Compatibility with existing plans.*** The Land Use Ordinance sets forth the requirements for the various zoning districts. The Comprehensive Plan adopted by the City Council June 17, 2014

proposes and supports mixed uses in the subject area. Buffering or separation between uses is encouraged to minimize impact and provide a transition between lower and higher density land uses.

3. ***The impact of the zoning decision on the landowner, the immediate neighbors, and the surrounding community.*** The degree of change from R-6 to B-4 represents an increase in potential land use intensity. The specific change will benefit the land owner by bringing a nonconforming use into conformance with a use that is permitted in the district within the district in which it will be located. The specific potential impact to neighbors is viewed as minimal due to the existence of adjacent land similarly zoned with existing development, and that future development of nearby property is expected to be commercial in nature.
4. ***The relationship between the newly allowed use and the previously allowed uses.*** Planning Staff has evaluated and compared the permitted uses in the B-4 and R-6 Districts as enumerated in The Table of Permissible Uses (Section 141-49) in light of development trends. Upon viewing all permissible uses for these zoning districts staff has determined that the permitted uses in the current zoning classification are not supported by development trends, and the uses in the proposed classification support the reasonableness of the petitioner's request in view of adjacent property usage.

Mayor Doughtie asked Planning & Development Director Lasky to clarify the location of the properties requesting to be rezoned. She replied the tax parcel identification numbers were 0904738, 0906312 and 0902191 which were outlined in yellow. He asked what was on the lot marked in red off of Wheeler Street that appears to be sticking out. She said it was a vacant lot and perhaps the reason is due to the ownership or to allow access.

Mayor Pro Tem Ferebee asked for the parcel number where the actual business was located. Planning & Development Director Lasky replied it was 0904738 but some of the parking of vehicles was on 0906312. He asked what was on the property with the parcel number 0904814. She said it was a single family dwelling. She added they were considering rezoning all three parcels. The owner owns all three of them and although two of them are vacant lots, they are used as accessory uses to the business. She stated there was a building in the back of 0904738, but the owner may be able to explain more about the uses. Mayor Pro Tem Ferebee asked what was on the lot behind it. Planning & Development Director Lasky said homes were located there.

Mayor Pro Tem Ferebee asked which lot the letter is from. She replied it was parcel number 0907623 (204 Wheeler Street) so it is behind the parcels being considered for rezoning.

Planning & Development Director continued with the presentation.

10. **Planning Board Recommendation**

The Roanoke Rapids Area Planning Board held a public meeting on Thursday, July 18, 2019, to review the subject application. The applicant, Leonard Love did not attend this meeting.

In attendance was a Kenneth Lashley. He said that his property was adjacent to Mr. Love's and that he did not object to the proposed zoning change but wanted to know what kind of uses would be permitted on this property with the proposed zoning designation?

During deliberation, Board member Buffaloe states that it rather presumptuous of Mr. Love to think that he can start a business without receiving proper approvals and then ask for approval upon being given notice that the business could not continue to operate. Board member Hux-Mills agreed with Mr. Buffaloe. It was also noted that Mullen and Strickland Streets are not constructed for commercial traffic.

The Planning Board voted unanimously to deny a Recommendation of Consistency.

The Planning Board voted unanimously to recommend to City Council that the rezoning request be denied.

11. Requested Action by City Council

Staff requests that the City Council conduct a public hearing, receive citizen comment, deliberate on the matter and render a decision on two items:

- 1. Motion & Vote concerning Statement of Consistency**
- 2. Motion & Vote concerning a final decision to rezone the subject properties.**

Planning & Development Director Lasky stated City Council can approve or deny the Statement of Consistency. This has changed some due to changes in general statutes. While the comprehensive policies may support it, there are two different responses depending on approval or denial.

Select appropriate response (approval or denial):

_____ **Approval:** Upon review of the request, it is City Council's determination that the above request is approved and in the public interest of the City of Roanoke Rapids in that it provides for the organized residential and commercial growth that will help to ensure the health, safety, and general welfare of the citizens of Roanoke Rapids.

_____ **Denial:** Upon review of the request, it is City Council's determination that the above request is denied and not in the public interest of the City of Roanoke Rapids, with a finding that the proposed use negatively affects adjacent residential uses as proposed. Denial of approval helps ensure the health, safety, and general welfare of the citizens of Roanoke Rapids.

Public Notice Response Letter (Attachment #2)

204 Wheeler Street
Roanoke Rapids, N.C.
July 30, 2019

City of Roanoke Rapids
Planning and Development Department
1040 Roanoke Avenue - PO Box 38
Roanoke Rapids, N.C.

Sirs:

I am the owner of property 204
Wheeler Street Roanoke Rapids, N.C..

As discussed with Mr. Hatch July 29th,
The Applicant, Mr. Love, has been conducting
a business behind my property. I don't
live there. The house has been rented in
the past. Whenever I am there, very
loud noises come from the property of Mr.
Love. It sounds like a compressor or tire
machine. I spoke with neighbors ^{to} my
right. They said that there is noise all hours
of the night including revving car engines.
I have more of a problem with the level of
noise being produced from his business. I
don't think I could sell or rent my house
with level of noise and times all hours day
or night.

Please reconsider zoning or permits
for business with loud noise.

Thank you

Constance S. Tudor

Councilman Smith asked if he was correct that Wheeler Street goes to Strickland Street then you have to turn on Strickland Street to turn to go back to Mullen Drive. Planning & Development Director Lasky said Strickland does connect them but Strickland is an unimproved street. He said on the map it looks like it cuts right into Premier Blvd. She stated it appears that it used to connect but there is no direct access to Premier Blvd. He asked if Wheeler Street and Mullen Drive end up in Chockoyotte Park. She replied that was correct and there is no access there and the only egress is via Wheeler Street to Julian Allsbrook Hwy.

Mayor asked if there was anyone in the audience who wished to make comments on this matter.

Applicant

Leonard Love stated his address was 205 Mullen Drive and he also owned the two lots beside it. He showed City Council on the map the properties he owned and also parcels that he stated he had their signatures for the okay to have his business. He said in reference to spot zoning, that was a grey area there and he had a lot of pictures of shops behind apartments and houses. He stated he does not work on vehicles; they are his. He builds engines for a living - engines only. He does a lot of machine work for high end shops such as Little & Jenkins. He probably had \$250,000 in equipment in that building. These lots were purchased to put a nice building on, not to put cars on them. Right now nothing was on those lots but enclosed trailers and his trucks which he keeps his personal race cars in. He referred to the lots in the area and stated they were not all houses. There are three accesses to KFC, Taco Bell and Texas Steak House. There was a lot of traffic on that road. So many tractor trailers go down that road because they get lost because they can't get to Walmart. He stated on his side he has signatures from everyone there who agree to rezone it to commercial.

He said in reference to noise, Walmart wakes him up every morning at 4 a.m. but he does not call the City to complain about it. They are dropping containers and pulling trucks in. He has a camera installed on top of his house with audio and video on it to prove that. He was less than 30 feet from their back door. Mr. Love said he had some pictures he wanted to show City Council.

Mayor Doughtie asked what was on parcel number 0904739. Mr. Love replied a house was there and he has the lady's signature; she was all for it being commercial and thinks it would be good. He said there was a lot of traffic, it is not a low traffic area at all. Mayor Doughtie asked Mr. Love if he submitted any of this information before. Mr. Love said he did not know anything about the first meeting. Mr. Hatch called him today to remind him of this one. He had the notice for this one and had planned to be here. He continued to say he had signatures of Michael Dunlow and Frankie Jones.

He said he does not create a lot of fuss over there. The engines he builds are not for highway use. He finished one yesterday that was 2200 horsepower and one today that was 900. These engines are crated and shipped out. A majority of his work is not for Roanoke Rapids. He does not do automotive work anymore as far as people bringing him their cars.

Mayor Doughtie asked Mr. Love if all the cars and trailers were his cars. Mr. Love replied they were his cars. He has four enclosed trailers and four pick-up trucks. What pictures they did take, those cars are not there anymore. Two of them were my uncle's cars and they are gone. Planning & Development Director Lasky said she could confirm that most of those vehicles shown on the aerial image (it is from 2017) are not there.

Mr. Love showed Council photos of properties surrounding his property. Mayor Pro Tem Ferebee asked to see a photo of his shop. Mr. Love said he has not put up a shop building yet. The shop he is working out of now is behind his house. Mayor Pro Tem Ferebee asked to see photos of whatever he was working out of. Mr. Love stated Mr. Hatch probably had plenty of pictures of it because he came by there about twice a week. He did not object or have a problem with that. (Mr. Hatch presented a photo to Council). Mr. Love said Planning & Development Director Lasky said the City did not condone spot zoning. Planning & Development Director Lasky interjected that she was not claiming spot zoning, it is one of the considerations when Council looks at this and she did not believe this was spot zoning.

Mayor Doughtie asked Mr. Love if he had constructed a building since he bought the property. Mr. Love replied yes he had put a 21 ft. x 41 ft. building and he did get a permit to do that. Planning & Development Director Lasky stated the signage on that building is really what drew a lot of the attention to the commercial activities taking place there. Mr. Love said the stuff that they see going on in that big building is more personal use. The small one beside it is where the activity goes on and the doors are never open. He believes Mr. Tart has been in that building. There are a lot of parts and high end engines in there. He is not denying what he does; he gets up every morning at 4:30 a.m. and works.

Councilman Smith asked Mr. Love where he works on his race cars. He replied in the big building. That is his personal stuff. Councilman Smith asked if he had any idea that working on the race cars caused any disturbance in his community with the loud noises and mufflers. Mr. Love said he had only had one compliant and he has been there for five years and that was just recently. He could very easily get that under control or he could do like Walmart does at 4:00 a.m., which he would not do.

Planning & Development Director Lasky stated that if City Council wanted more information or more time, the public hearing could be continued. That could be an option as opposed to making a decision tonight.

Mr. Love stated if he could do this, he would assure the City that no loud cars would start after 12 on Saturday and none on Sunday whatsoever.

Mayor Doughtie stated the people living around him could change and he understood that Mr. Love had an offer or option to purchase more property. He did not know how it would look to the City Council if there were some noise barriers such as heavy, large vegetation. He said he did not want the City Council to look anti-business but from what he has seen and read, Mr. Love probably jumped the gun on doing some things. He asked if the building he put there was just a building or was it for the business. Mr. Love replied it was to put his stuff in it. He has been living there for five years and recently purchased the property. As far as the noise, there is no noise. The machine work is done with the doors shut and what he does for a living does not cause any noise. His personal race cars is what causes the noise.

Mayor Doughtie referred to Police Chief Martin and asked if he had knowledge of any calls about noise. Mr. Love said yes because there was one two days ago; one in five years. Chief Martin replied to properly answer that question he would need to contact Halifax Central to obtain a report but Mr. Love was correct, they did get a call a couple of days ago but beyond that he would have to call Central.

Mayor Doughtie asked City Council if they wanted Chief Martin to do more investigation and if they wanted more information before making a decision.

Mr. Love said as far as the noise, the noise is from his personal stuff and if this was done he would get that under control at a bare minimum.

Motion was made by Councilman Smith, seconded by Mayor Pro Tem Ferebee and unanimously carried to continue the Public Hearing until the October 1, 2019 City Council Meeting at 5:15 p.m.

Councilwoman Scarbrough asked Mr. Love to explain his statement that there is no noise, it's just my cars. Mr. Love replied that he personally owns four race cars which is what causes the noise they are hearing. What he does for a living, these things are never started; they are primed up, get oil pressure and are crated up and shipped out. Whether the rezoning is approved or not, they will still hear the race cars. He can get that to a bare minimum and could even stop it. He could winch them in the trailer

they would not hear a winch. The noise they are hearing has nothing to do with his business.

Mr. Terry Buffaloe stated he is on the Planning Board and he was kind of against this. The biggest reason he was campaigning for a no was because Mr. Love did not attend the Planning Board meeting. Now hearing his explanation as well as the growth he was bringing to the community that would definitely change his decision. Mr. Love stated if this is approved and he gets the building he was going to hire five people. Mr. Buffaloe said that was what he was hearing too. Like the Mayor said, they are not against business development, they are eager for it. The way things were handed to the Planning Board and looking at if they rezoned this and two years from now this guy decides to move out, they would be stuck with a gridlock. He said if Mr. Love would have been at the meeting to make his presentation it would have gone a long way in his mind. He hopes Mr. Love will be successful in what he was trying to do on that property and in the City of Roanoke Rapids. He added that he led the charge on a no to the request because he did not have Mr. Love there to question him on what he was doing.

New Business

Order to Demolish and Remove Dwelling at 212 Washington Street (Ordinance No. 2019.06)

Planning & Development Director Lasky presented the following report and Ordinance No. 2019.06:

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

- **January 26, 2014** - Code Enforcement Officer Donald Tart inspects the property after receiving a complaint as a possible unsafe building in the rear. A list of Minimum Housing violations is compiled, including unsecured and unsafe outbuilding.
- **February 13, 2015** - Property is found to be unsecured. Owners notified by letter.
- **February 24, 2015** - Planning Director Kelly T. Lasky sends an email message to Tart requesting he move forward with securing the dwelling, and the dwelling is secured.
- **April 5, 2018** - Planning sends a letter to property owners Lee A. Davis Jr. and Xaviera G. Davis that the rear building is unsafe. Tart informs in letter he discovered unsafe wiring and unsound porch decking during an inspection on April 3, 2018. Letter is later returned undelivered with owners not listed at the address on record. Office later learns new address in Newport News for the owners.
- **May 10, 2018** - **Notice of Lis Pendens filed against 212 Washington St. with the Halifax County Clerk of Court's office.** Research finds Lee A. Davis and Xaviera G. Davis as owners in Halifax County Deed Book 2404, Page 278. A Deed of Trust on the property is also found in Book 2404, Page 282, with Ronald W. Mellinger and Ronald B. Mellinger listed as Beneficiaries and Attorney Thomas Wellman as Trustee.

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- **May 18, 2018** - Hearing notices sent to all parties of interest in the property. Notices for Ronald B. Mellinger and Thomas Wellman are marked as delivered, Wellman on May 23, 2018, Mellinger on May 25, 2018. Hearing has to be rescheduled when notice for Ronald W. Mellinger is returned as unclaimed on June 21, 2018.
- **October 15, 2018** - Notice of hearing sent via Certified Mail and regular mail to all parties of interest in the property and is posted on the property.
- **October 15, 2018** - **An Affidavit of Publication is filed with The Daily Herald for notice of hearing. Publication dates, as notarized are Nov. 4, 2018, Nov. 7, 2018, Nov. 11, 2018.**
- **November 14, 2018** - Hearing is conducted at 10:30 a.m. at 212 Washington St. Present are Code Enforcement Officers Donald Tart and Roger Bell, as well as Roanoke Rapids Public Works employees Cody Carter, T.J. Mayton, and Mike Manning. Owner does not attend and a list of violations found at the property is compiled.
- **January 9, 2019** - Findings of Fact are posted on the property and sent via certified mail and regular mail to all parties of interest in the property 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 the conditions and deficiencies noted in the attached Exhibit A by a date not later than the 9th day of April, 2019. Value of property is found to be **\$34,600**, according to tax records, and assessed damage amount comes to **\$24,500**, meaning property is classified as dilapidated, since costs of repair exceed 50 percent of the property's value.
- **January 14, 2019** - **Findings of Fact notice for Attorney Thomas Wellman is returned as delivered with signature of Carol Davidson.**
- **January 30, 2019** - **Certified Findings of Fact notice for Ronald B. Mellinger is returned as unclaimed.**
- **February 4, 2019** - **Certified Findings of Fact notice for Ronald W. Mellinger is returned as unclaimed.**
- **February 14, 2019** - **Certified Findings of Fact notice for Lee A. Davis and Xaviera G. Davis is returned as unclaimed.**
- **March 29, 2019** - **Ten-day notice is sent to property owners, informing them of deadline for city action.**
- **April 9, 2019** - **Deadline for response from owner passes. Action by city is held off after discussion between Code Enforcement Officer Roger W. Bell Jr. and City Planning Director Kelly Lasky concerning prioritization of demolition projects due to funding. Action will be revisited at a later date.**
- **August 23, 2019** - Notice sent to owners and parties of interest to advise them of the City Council meeting to be held at 5:15 p.m. September 3, 2019 at the Lloyd Andrews City Meeting Hall, 700 Jackson Street, **at which Council will consider an order to demolish and remove the dwelling located at 212 Washington Street, Roanoke Rapids, NC 27870.**
- **The 2019 assessed tax value for this dwelling is \$34,600.**
- **Taxes in the amount of \$551.60 are owed for the tax year 2018.**
- **Lot cutting fees in the amount of \$7,105.00 are currently owed to the city for this address.**

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 212 Washington Street, Roanoke Rapids, N. C. with a lien to be placed against the real property upon which the costs of removal are incurred.

Planning & Development Director Lasky stated they do feel that there is opportunity on this particular structure for the Fire Department to conduct some training activities especially since it is a very large home. The demolition costs would be minimized through the fire training activities. They will still have to conduct asbestos surveys and have asbestos removed prior to those activities.

Mayor Doughtie asked Attorney Chichester if the City demolishes the house could he move forward with causing the property to be put up for sale even if it only satisfied the tax lien in order to get a new dwelling on it because it is a nice lot. Attorney Chichester replied they could, there is a process they could move on it fairly quick. Whether the City would end of with the property or not would depend upon if someone else came in and bid on it because it would be put up for auction. Mayor Doughtie asked if the City would recoup the \$7,100 if it sold for that much or more. Attorney Chichester replied that was correct. He said he understood that the 2018 taxes had been paid and asked Planning & Development Director Lasky if the prior year taxes had been paid. She replied to the best of her knowledge they had been paid. Attorney Chichester asked if the creditors that apparently loaned some money and hold a deed of trust on it, if their notices were returned unclaimed. Planning & Development Director replied yes. He asked if the owner's notices were also returned unclaimed. She confirmed that was correct. Attorney Chichester stated the City could move forward with foreclosure as far as any taxes owed as well as liens for grass cutting and demolition costs.

Mayor Doughtie asked Attorney Chichester what would happen if the City forced a sale and either nobody bid it or bid it less than what was owed. Attorney Chichester replied City Council would have to approve the bid. For instance if someone bid \$200 City Council would not have to accept the bid for being unreasonably low. Mayor Doughtie said if someone purchased the property for \$200 and there was a reasonable tax assessment on the property that would turn it back around to an income producing property for the City. Attorney Chichester agreed and said if a private individual bought the property, it would go on the tax books at whatever the appraised value was.

Councilman Smith stated he noticed this started back in 2014 and asked how many letters is the City required by law to send out. Planning & Development Director replied they have to send a letter when the violation was noted as the property being unsecured. That is a letter to the owner of record asking what their intentions were. The owner has the opportunity to make the repairs or to secure the dwelling and in this case they did not. Councilman Smith asked how long was the City required to give the owner to do that. She replied in the case to have a property secured, they usually give them 10 days. She noted this house had been found to be unsecured on several occasions and people had gone in and damage had occurred. Councilman Smith said the reason he asks the question is because it shouldn't take five years to get something like this done and questioned should it or is that normal. Planning & Development Director Lasky said this property is one that was found unsecured and was boarded up and then found unsecured again. When it was boarded up, staff was working on other properties with much more severe conditions taking place. Then in 2018 there were issues with the porch so she directed Code Enforcement Officer Tart to move forward with the formal process.

Councilman Bobbitt asked when the house was built. Planning & Development Director Lasky replied according to the tax records it was built in 1910 and remodeled in 1998.

Planning & Development Director Lasky said when they have the correspondence on the different steps involved that is a certified mail letter. The person is given ample notice plus the City paid additional monies to advertise in the newspaper about anyone who may have claim to the property.

Councilman Bobbitt asked what the value of the house was the last time it was occupied. She replied she did not have the value when it was last occupied but the historic assessment from the County tax records shows from 2015 – 2019 are the same value. The land is valued at \$8,700 and building valued at \$34,600.

Attorney Chichester said if City Council is sending out a letter requiring someone to bring their property into compliance, the process and trying to force that to happen is a much less intrusive action. But when City Council is considering taking action to demolish someone else's property, the laws are heavily weighted in favor of the owner and people with interest in it such as debtors. He said five years is one thing but there are some strict time limits, letters and crossing of all the t's and dotting i's.

Planning & Development Director Lasky reported the hearing was conducted in November 2018 where the list of items was generated and in January 2019 that list

was sent out. When they send out a letter with the list of items, the owner is given 90 days to comply with the order to repair or demolish. After the 90 days are up, it gives the City the authority to bring it to City Council. Sometimes people ask for more time but in this case no one asked for anything. When the time passed in April 2019, she told staff to hold off on bringing a demolition order to City Council due to prioritization of other houses that needed to be demolished. They held off on this one because they knew five or six months ago they did not have the funds for demolition. They decided to wait until the new fiscal year to bring this one forward.

Councilman Smith asked if once City Council gives approval of demolition, does it have to be done in a certain length of time. She replied it does not.

Mayor Pro Tem Ferebee asked in reference to the letters being sent and received to the attorney Thomas Wellman, was there any communication from that. He also expressed concern about any error coming from that later on and wished to continue communication with the attorney prior to demolition. Planning & Development Director Lasky stated Attorney Thomas Wellman is the Trustee on the home and has the right to appear and make a statement. They do follow the guidelines that were adopted by the City and even went above and beyond and advertised for the hearing on several occasions in the newspaper to cover that. Mayor Pro Tem Ferebee said he was in favor of the demolition, he would just like to hear a conversation from him.

Attorney Chichester added that generally a Trustee in North Carolina holds a title to the property and stands between the record owner and the creditor (bank or individual) and in this case it looks like individuals. A person can be named a Trustee without ever being known that they have been named, whether it is a corporation or an individual. He did not know about this personally, in a lot of cases especially an attorney will be named as a Trustee and they do not know they have been named or the address of the creditor or the owner of the property. Planning & Development Director said they typically do not hear from the Trustee.

ORDINANCE 2019.06

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:

212 Washington Street, Roanoke Rapids, NC Halifax County PIN: 0903301

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:

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 **212 Washington 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 **212 Washington Street** in the City of Roanoke Rapids North Carolina, and owned by **Lee Andrew Davis and Xaviera Greene Davis**. 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.

On motion of Councilman Wayne Smith, seconded by Mayor Pro Tem Carl Ferebee, the foregoing Ordinance was adopted the 2nd day of September 2019.

City of Roanoke Rapids

Emery G. Doughtie, Mayor

Motion was made by Councilman Smith, seconded by Mayor Pro Tem Ferebee and unanimously carried to adopt Ordinance No. 2019.06 ordering the Code Enforcement Officer to demolish and remove the substantially dilapidated dwelling at 212 Washington Street, Roanoke Rapids, NC with a lien to be placed against the real property upon which the costs of removal are incurred.

Order to Demolish and Remove Dwelling at 1013-1015 Vance Street (Ordinance No. 2019.07)

Planning & Development Director Lasky presented the following report and Ordinance No. 2019.07:

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

- **July 5, 2018** - Residence was damaged by fire. Fire is extensive to the point where the residence cannot be occupied. Planning obtained a fire report on the incident.
- **November 17, 2018** - Property owner's 135-day deadline passed with no action from owner on the condition of the property other than owner taking steps to secure property to the best of his ability.
- **January 23, 2019** - Notice of Lis Pendens filed with the Halifax County Clerk of Court. Research conducted shows Paul Singh, AKA Pritipal Singh, to be the sole owner with no other party of interest in the property as recorded in Halifax County Deed Book 2576, Page 507.
- **January 28, 2019** - Notice of hearing sent to property owner via certified mail and regular mail. Hearing was set for 10:30 a.m. on February 27, 2019.
- **February 4, 2019** - **Certified mail to party of interest Paul Singh is returned undelivered. Regular mail is not returned.**
- **February 13, 2019** - Code Enforcement Officer Roger Bell contacts Singh by phone at 11:22 a.m. Singh indicates he has no interest in attending the hearing and isn't interested in preserving the property. He said he was trying to sell the property but is interested in donating the property to the city.

- **February 27, 2019** - Hearing is held at 1013-15 Cedar Vance Street and is attended by Minimum Housing Code Enforcement Officers Donald Tart and Roger Bell as well as Public Works employees Cody Carter and T.J. Mayton. Inspection leads to determination the costs of repairing the dwelling would be **\$65,000**, which is greater than 50 percent of the tax value of **\$10,500**.
- **March 6, 2019** - The Findings of Fact document 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 **4th day of June, 2019**. Mailing is by Certified and Regular mail to the owner. The notice was posted to the dwelling.
- **April 4, 2019** - *The Findings of Fact notice sent to Paul Singh Davis via certified mail is returned as undelivered. Notice sent by regular mail is not returned.*
- **July 8, 2019** - A letter was sent reminding owner of the upcoming deadline of **July 15, 2019** to have the dwelling repaired or demolished and removed.
- **August 23, 2019** - Notice sent to owner to advise them of the City Council meeting to be held at 5:15 p.m. September 3, 2019 at the Lloyd Andrews City Meeting Hall, 700 Jackson Street, **at which Council will consider an order to demolish and remove the dwelling located at 1013-15 Vance Street, Roanoke Rapids, NC 27870.**
- **The 2019 assessed tax value for this dwelling is \$10,500.**
- **There are no taxes currently owed at this address.**

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 1013-15 Vance Street, Roanoke Rapids, N. C. with a lien to be placed against the real property upon which the costs of removal are incurred.

Planning & Development Director Lasky noted this home likely has asbestos and fire training activities would not be likely because it is within the Rosemary Mill Historic District. The City is still under a memorandum of agreement with the State Historic Preservation Office for the next couple of years to not conduct any fire training activities in that area. The State would prohibit giving the Fire Department a permit to do so.

Mayor Pro Tem Ferebee asked Planning & Development Director Lasky what was her best guess to what it would take to demolish this house. She replied a house of similar size that they have taken down in the past few years cost \$12,000-\$14,000. It all depends on the amount of asbestos present because the tipping fees at the landfill costs more. She added that with all the demolitions orders presented tonight, she would like a contractor to bid on all of them. She would anticipate the costs would be lower for having one contractor do all of them rather than having four separate contracts and four separate jobs done.

Mayor Doughtie noted that the correspondence on February 13, 2019 states Mr. Singh was interested in donating the property to the City and asked if that conversation went anywhere. Planning & Development Director Lasky recalled the City Council saying in the past they did not have interest in taking on the liability of damaged structures from a property donation standpoint. Mayor Doughtie stated he remembered Attorney Chichester talking about that.

Councilman Smith said the City was planning to demolish the house anyway and asked could they talk to Mr. Singh about donating land to the City. Attorney Chichester said they could and he did not recall ever saying for the City not to accept lots/land. His concern was buildings such as this could be a liability.

ORDINANCE 2019.07

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:

1013-15 Vance Street, Roanoke Rapids, NC Halifax County PIN: 0907513

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:

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 **1013-15 Vance 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 **1013-15 Vance Street** in the City of Roanoke Rapids North Carolina, and owned by **Paul Singh, AKA Pritipal Singh**. 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.

On motion of Councilman Wayne Smith, seconded by Councilman Ernest Bobbitt, the foregoing Ordinance was adopted the 2nd day of September 2019.

City of Roanoke Rapids

Emery G. Doughtie, Mayor

Motion was made by Councilman Smith, seconded by Councilman Bobbitt and unanimously carried to adopt Ordinance No. 2019.07 ordering the Code Enforcement Officer to demolish and remove the substantially dilapidated dwelling at 1013-1015 Vance Street, Roanoke Rapids, NC with a lien to be placed against the real property upon which the costs of removal are incurred.

Order to Demolish and Remove Dwelling at 805 Cedar Street (Ordinance No. 2019.08)

Planning & Development Director Lasky noted this property and the next property have the same owner and the parties of interest are in attendance. She also noted the 117 Madison Street property was purchased during the City's process of the hearing.

She called on Code Enforcement Officer Roger Bell to present. He stated he and Mr. Tart were involved with this property from the beginning. He presented the following report and Ordinance No. 2019.08:

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

- **October 21, 2018** - Residence was damaged by fire. Damage was so extensive the dwelling could not be secured. Planning obtained a fire report on the incident.
- **March 5, 2019** - Property owner's 135-day deadline passed with no action from owner on the condition of the property.
- **April 26, 2019** - Letter notifying property owner Sandra Davis a formal process was beginning is sent after inspection shows no work has been done on the dwelling to repair or demolish the structure.
- **May 2, 2019** - Notice of Lis Pendens filed with the Halifax County Clerk of Court. Research conducted with the Halifax County Register of Deeds shows Sandra Davis to be the sole owner and party of interest in the property as recorded in Halifax County Deed Book 2572, Page 166.
- **May 8, 2019** - Notice of hearing sent to property owner via registered mail and regular mail. Notice is posted on the dwelling as well. Hearing was set for 10:30 a.m. on June 5, 2019.
- **May 17, 2019** - *Certified mail to party of interest Sandra Davis is recorded as delivered.*
- **June 5, 2019** - Hearing is held at 805 Cedar Street and is attended by Minimum Housing Code Enforcement Officers Donald Tart and Roger Bell, as well as property owner Sandra Davis and her son Chris Davis. Ms. Davis expresses her intention to demolish the property herself during the hearing. Inspection leads to determination the costs of repairing the dwelling would be **\$35,000**, which is greater than 50 percent of the tax value of **\$17,100**.
- **June 6, 2019** - The Findings of Fact document 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 **15th day of July, 2019**. Mailing is by Certified and Regular mail to the owner. The notice was posted to the dwelling.
- **June 27, 2019** - *The Findings of Fact notice sent to Sandra Davis via certified mail is returned as undelivered. Notice sent by regular mail is not returned.*
- **July 8, 2019** - A letter was sent reminding owner of the upcoming deadline of **July 15, 2019** to have the dwelling repaired or demolished and removed.
- **August 15, 2019** - Notice sent to owners and parties of interest to advise them of the City Council meeting to be held at 5:15 p.m. September 3, 2019 at the Lloyd Andrews City Meeting Hall, 700 Jackson Street, **at which Council will consider an order to demolish and remove the dwelling located at 805 Cedar Street, Roanoke Rapids, NC 27870.**

- The 2019 assessed tax value for this dwelling is \$28,600.
- There are no taxes currently owed at this address.

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 805 Cedar Street, Roanoke Rapids, N. C. with a lien to be placed against the real property upon which the costs of removal are incurred.

Property Owner Comments

Ms. Teresa Duckett with her mother Sandra Davis stated she wants to take over this property because her mother does not have the funds to have the asbestos inspection done. She would like to have the asbestos inspection done and demolish the house and keep the land.

Mr. Bell clarified that she was saying she wanted to have the asbestos survey done and the City demolish the structure and she retain ownership of the property. Ms. Duckett replied no, she was already talking with a contractor to demolish the house once the asbestos survey was done. Mr. Bell asked if she planned to move forward with getting her own demolition and get the permits. She replied yes.

Councilman Smith asked what was the timeframe she was talking about. Ms. Duckett replied 30-60 days, but she did not know how long it takes for the asbestos report to come back. Ms. Davis said she was trying to find out if a test was done when she purchased the property. Meleco did not tell her anything about it. The property became hers and within a month with nobody living in it and no electricity, it caught on fire. She said she has been trying to get in touch with the lady that sold her the property and she found out that lady doesn't work for Meleco anymore.

Mayor Doughtie asked if she had any insurance on the house. Ms. Davis replied no she did not.

Mayor Pro Tem Ferebee asked for clarification that she could get the assessment and demolition completed within 30-60 days. Ms. Duckett replied yes. Mayor Pro Tem Ferebee stated he would like to keep the order in place but allow Ms. Duckett time for her to get this done. If it is not done, let the order go through.

Councilman Smith asked Ms. Duckett if she could get it done in 60 days. Ms. Duckett replied at least 90 days.

Mayor Doughtie asked Attorney Chichester if City Council could adopt the ordinance with the condition that they would allow the owner 60 days. He replied yes, City Council may do that. He and Planning & Development Director Lasky have been conferring and she would suggest at least 90 days. The ordinance would have an effective date.

ORDINANCE 2019.08

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:

805 Cedar Street, Roanoke Rapids, NC Halifax County PIN: 0905468

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:

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 **805 Cedar 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 **805 Cedar Street** in the City of Roanoke Rapids North Carolina, and owned by **Sandra Davis**. 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 December 3, 2019.

City of Roanoke Rapids

Emery G. Doughtie, Mayor

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Smith and unanimously carried to adopt Ordinance No. 2019.08 ordering the Code Enforcement Officer to demolish and remove the substantially dilapidated dwelling at 805 Cedar Street, Roanoke Rapids, NC with a lien to be placed against the real property upon which the costs of removal are incurred effective December 3, 2019.

Order to Demolish and Remove Dwelling at 117 Madison Street (Ordinance No. 2019.09)

Code Enforcement Officer Bell presented the following report and Ordinance No. 2019.09:

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

- **May 7, 2018** - Residence was damaged by fire. Fire is extensive to the point where the residence cannot be occupied. Planning obtained a fire report on the incident.
- **September 19, 2018** - Property owner's 135-day deadline passed with no action from owner on the condition of the property.

- **September 19, 2018** - Notice of Lis Pendens filed with the Halifax County Clerk of Court. Research conducted shows Raymond Cain to be the sole owner and party of interest in the property as recorded in Halifax County Deed Book 2544, Page 144.
- **September 24, 2018** - Contacted by Sandra Davis, who indicates intention to purchase fire-damaged dwelling at 117 Madison Street.
- **October 10, 2018** - Notice of hearing sent to property owner via certified mail and regular mail. Hearing was set for 10:00 a.m. on November 9, 2018.
- **October 16, 2018** - Code Enforcement Officer Roger Bell has phone conversation with Raymond Cain, who states he is aware of hearing and will attend.
- **October 27, 2018** - Certified mail to party of interest Raymond Cain is returned undelivered. Regular mail is not returned.
- **November 9, 2018** - Bell receives phone call from Davis stating her intention to attend the hearing.
- **November 9, 2019** - Hearing is held at 117 Madison Street and is attended by Minimum Housing Code Enforcement Officers Donald Tart and Roger Bell as well as property owner Raymond Cain and prospective buyer Sandra Davis. Inspection leads to determination the costs of repairing the dwelling would be **\$22,500**, which is greater than 50 percent of the tax value of **\$19,500**.
- **November 16, 2018** - The Findings of Fact document 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 **21st day of February, 2019**. Mailing is by Certified and Regular mail to the owner. The notice was posted to the dwelling.
- **November 19, 2018** - The Findings of Fact notice sent to Raymond Cain is recorded as delivered.
- **January 22, 2019** - Halifax County Register of Deeds Deed Book 2580 Page 499 records the sale of 117 Madison St. from Raymond Cain to Sandra Davis.
- **February 6, 2019** - Sandra Davis applies for and is granted a building permit for 117 Madison Street renovations and repairs. To date, no repairs have been performed and the dwelling remains unfit for habitation and partially unsecured.
- **August 23, 2019** - Notice sent to owner to advise them of the City Council meeting to be held at 5:15 p.m. September 3, 2019 at the Lloyd Andrews City Meeting Hall, 700 Jackson Street, **at which Council will consider an order to demolish and remove the dwelling located at 117 Madison Street, Roanoke Rapids, NC 27870**.
- **The 2019 assessed tax value for this dwelling is \$3,300.**
- **There is \$319.00 owed to the city for lot cutting at this address.**

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 117 Madison Street, Roanoke Rapids, N. C. with a lien to be placed against the real property upon which the costs of removal are incurred.

Mr. Bell said Ms. Davis obtained a building permit on January 22, 2019 to try and rehab the property. He said work has been done. He went by last week and siding has been torn off. The owner hopes to rehab the property and live there.

Christopher Davis stated he plans to live there with his mother. He has been to school for several different things dealing with houses. He worked with remodeling houses. He tore the burnt part off the back of the house. He has taken the siding off the house and starting taking the roof off, he tore the whole burnt part of the kitchen off and removed all the burnt plaster. He plans to help fix the house up for his mother.

Councilman Smith asked how much time did he need. Mr. Davis replied he works six days a week and tries to take care of four kids so all the money he can put forth toward the house he will put forward to it. All the free time he has from his job he will work on it. He used to work for A&W Restoration for 10-13 years. He knew a lot about fire and water damage work.

Planning & Development Director Lasky said when a building permit is obtained it is initially good for six months and may go up to a year. But as long as they are calling in routine inspections they could rebuild for 10 years. There is no time line if routine inspections are being called in and some work is being done within a six month period. She said this is the situation they get into here.

Mayor Pro Tem Ferebee asked about putting a timeline on this one because they would not want to wait 10 years. Planning & Development Director Lasky said they cannot put a time limit on the building permit which is by State law, but can as far as bringing the house up to code. The building permit was obtained but then nothing happened until last week. Mayor Pro Tem Ferebee said that was what he was referring to by putting a timeline on when it would be brought up to code because they have seen that before. She replied yes and informed Council the owner has already been given 135 days and nothing had been done so they could give another extension like they did for 805 Cedar Street for improvements to be made. The scenario that could happen would be the owner continues to work on it or the owners put money into it and when the time expires the City moves forward to demolish it. They would still maintain ownership but the demolition fees will be assessed against the property.

Mayor Doughtie asked Mr. Davis how much progress had he made. Mr. Davis replied quite a big difference. The kitchen area and kitchen roof. He has some 2x4 he needs to replace in the wall, redo the roof rafters, re-sheet and shingle the roof, re-vinyl side two sides of the house, remove the smut out of the whole house.

Councilman Smith asked Planning & Development Director Lasky if Council could table this item for 90 days and she come back to Council with a report of the progress being made.

Mayor Doughtie suggested Mr. Davis think greatly about this because the house has extensive damage.

Mayor Pro Tem Ferebee asked Mr. Davis to give his best guess when he believed he could get the house up to code. Mr. Davis replied as far as getting an inspector out there to inspect his framing with no wiring, he could do it in three months.

Motion was made by Councilman Smith, seconded by Councilwoman Scarbrough and unanimously carried to table the demolition order until December 3, 2019 so the Planning Department could bring back a report on the progress that had been made.

City Manager's Report

City Manager Scherer reported all departments have begun making preparations for Hurricane Dorian damage response. As of now, the track of the storm indicates we could receive 2"- 6" of rain and sustained winds of 35-45 mph. We had a conference call with the County Emergency Management Director today to coordinate efforts and identify resource shortfalls. Dominion Power crews are staging at The Roanoke Rapids Theatre tomorrow. Red Cross information has been placed on City Channel 193. Departments will issue hurricane prep and safety information on social media and City website. Public Works opened the valve of Rochelle Pond this morning at 7 a.m. It is a small pipe and it is going down slowly. Public Works crews are riding streets picking up grass and debris out of gutter/storm drains before the storm hits.

He reported the items Council approved at the last meeting for GovDeals.com auction is complete. Received \$9,500-\$9,600 from the auction.

He announced Timothy Robinson's bowling alley plans to open mid-September. They should be asking for their certificate of occupancy soon. Planning & Development Director Lasky said he has not called yet, but she is not aware of anything that would delay the opening. There is a "Store Closing Sale" banner at Goody's department store today, however, their parent company is also the parent company of Gordmans Department Stores. Goody's stores in other states have been converted to Gordmans, but we do not know if this is what's happening or not here.

He said the 9/11 Ceremony will be held September 11th at 8:45 a.m. in Centennial Park.

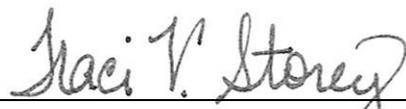
City Manager Scherer reported a Code of Ordinances meeting was held last Thursday with Attorney Chichester, City Manager Scherer, Planning & Development Director Lasky, Police Chief Martin and City Clerk Storey. City Clerk Storey will be compiling a list of revisions for City Council to consider to the City Code of Ordinance book.

He said the Police Department is working on promotions for two Patrol Sergeants and Investigation Department Captain. The radar trailer was delivered last week. They are learning about the things it can do to help them and hope to deploy it in the next couple of weeks.

He announced the Greater Joy Festival is scheduled for Saturday, September 7th at TJ Davis Recreation Center and Doyle Field from 9 a.m. – 3 p.m. If we receive a lot of rain, we will not allow use of the field. All activities will be inside. Mural commissioned by the Arts Council and painted by Napoleon Hill is being installed at the Canal Museum and will be done by tomorrow afternoon.

Other Business/Adjournment

There being no further business, motion was made by Councilman Bobbitt, seconded by Mayor Pro Tem Ferebee and unanimously carried to adjourn. The meeting adjourned at 7:10 p.m.



Traci V. Storey, City Clerk

Approved by Council Action on: September 17, 2019