



# Minutes of the Roanoke Rapids City Council

A regular meeting of the City Council of the City of Roanoke Rapids was held on **Tuesday, June 6, 2023, at 5:30 p.m.** in the Council Chambers at the Lloyd Andrews City Meeting Hall.

**Present:** Emery G. Doughtie, Mayor  
Carl Ferebee, Mayor Pro Tem  
Sandra W. Bryant)  
Tommy Daughtry)  
Wayne Smith)  
Rex Stainback)

**Council Members**

Kelly Traynham, City Manager  
Geoffrey Davis, City Attorney  
Traci Storey, City Clerk  
Carmen Johnson, Finance Director  
Morgan Worrell, Interim Captain of Investigative Division  
Christina Caudle, Human Resources Director  
Jason Patrick, Fire Chief  
David Wise, Planning & Development Director  
Larry Chalker, Public Works Director  
John Simeon, Parks & Recreation Director  
Tony Hall, Main Street Development Director

**Absent:** Gorton Williams, Interim Police Chief

Mayor Doughtie called the meeting to order and opened with an invocation.

**Adoption of Business Agenda**

Mayor Doughtie asked Council members if there were any known conflicts of interest with respect to the matters before them this evening. There being no conflicts, motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Stainback and unanimously carried to adopt the agenda as presented.

**Public Comment (Unscheduled)**

Mayor Doughtie announced next Tuesday would be his daughter, Lauren Doughtie’s 38<sup>th</sup> birthday. He asked everyone to give her a round of applause.

## Approval of City Council Minutes

Motion was made by Councilwoman Bryant, seconded by Mayor Pro Tem Ferebee, and unanimously carried to approve the May 16, 2023, City Council Regular Meeting and May 22, 2023, Special Meeting minutes as drafted.

## Committee Appointments

City Clerk Storey reported the Canal Museum Advisory Committee has a vacancy for the Roanoke Rapids Graded School District Representative. School Superintendent, Juliana Thompson nominated Ryan Stowinsky to serve as their representative. Mr. Stowinsky submitted a volunteer application for their review and consideration.

Motion was made by Councilwoman Bryant, seconded by Mayor Pro Tem Ferebee, and unanimously carried to appoint Ryan Stowinsky as the Roanoke Rapids Graded School District Representative on the Canal Museum Advisory Committee.

## Public Hearing

City Manager Traynham stated the purpose of the public hearing this evening is for the consideration by the public of the recommended budget for the upcoming Fiscal Year 2023-2024. In accordance with NC law, the government should have a proposed budget approved by June 30<sup>th</sup>, prior to the start of the July 1<sup>st</sup> fiscal year. The minimum requirement is that a public hearing be held. Any comments received and any proposed changes that would result would need to be balanced within the budget either through additional revenues or offsetting with other expenditures. She explained the important aspects of the budget are to look at the anticipated revenues for the City from its various sources and to consider the expenses to conduct its operations.

She said staff operates at full level across most departments as far as the services the City offers. The City has maintained the level of services that are currently provided for several years without making any cuts. The proposed budget includes funding for all positions that are currently funded, taking into account vacancies. The vacancies are funded with hopes for recruitment and retention of employees.

City Manager Traynham announced the proposed budget totals \$17,653,726 which is approximately a 3.9% increase over the current fiscal year's budget. This is a fairly modest increase taking into account the increases in prices. Things are at minimal levels to ensure the City can continue to provide services. Additional or extra projects are not proposed in this budget but rather to maintain City operations. The proposed

budget is much like the current fiscal year budget except for the majority of the cuts have been made so they can recommend a 5% cost of living adjustment (COLA) for employees and maintain current service and staffing levels.

She stated they continue provide services and continue to ask employees to do more with less. The City has a lot of creative employees. The proposed budget has been generated with the input from city department leaders and city staff. It takes into account looking out for personnel which was the priority in the development of this budget. It focuses on the human resources aspect for retention of employees and recruitment purposes as well.

She said the anticipated revenues include Ad Valorem Taxes. The taxes received have incrementally grown over the last few years. The proposed budget maintains the current property tax rate; no increase.

The proposed budget is balanced using an allocation of \$244,238 from the fund balance. This is a small amount compared to prior years. Other large sources of funding outside of Ad Valorem Taxes include solid waste fees, state fees and taxes, sales taxes, Powell Bill allocations and other state aid. Some of the state aid depends on spending habits/purchases and some are based on population. She noted Roanoke Rapids has seen a declining population over time rather than a growing population.

She said overall the proposed budget and the percentage of allocations is very similar across multiple years. She reviewed the percentage of budget allocations by department.

- General Government and Administration - 24%
- Police – 21%
- Fire – 14%
- Public Works – 26%
- Parks & Recreation – 11%
- Planning & Development – 4%

City Manager Traynham said the proposed budget includes a 5% COLA which is recommended to offset the impact of inflation on the employees' real working wages. This is consistent with a lot of other area units of government. All the currently funded positions are funded in the proposed budget. The budget does include increases in retirement rates that are set by the state. The employees' health insurance is still maintained by G.W. Hux & Company. They did not see any increases in health insurance costs this year.

She stated this budget does not include any capital equipment or capital projects. They would have to be considered outside of the general fund operating budget.

She said other expenditures include long-term debt. For the current year, they will have five different financing instruments. Total debt payment for the upcoming fiscal year is approximately \$1.3 million which includes a payment of almost \$1 million for the Theatre debt. In the upcoming fiscal year, the City will pay off a few instruments and at the end of the upcoming fiscal year they will satisfy over \$100,000 existing debt.

She referred to page 13 of 14 in the budget notebook. It shows what was initially requested by department heads, what is being recommended and the difference.

City Manager Traynham stated unless there were any specific questions at this point, it would be appropriate to open the public hearing.

Mayor Doughtie opened the public hearing. He stated the public hearing was open for anyone who would like to come forward to speak. He said they never had this many people at a budget public hearing combined in all the fourteen years he had been mayor. It was nice to see everyone there and he would like to hear from them because that is the way they learn and get ideas for things individuals may want City Council to spend their tax money for or not spend their tax money on.

City Manager Traynham clarified that no action would be taken tonight on the budget by City Council. The approval date is scheduled for the next meeting on June 20, 2023.

### **Dayna Langley**

Ms. Langley expressed her concern about what could be done for the police officers that are leaving because they could make more money in Halifax County, Nash County or other counties. They are not making that money here. If they start losing officers then the remaining officers will be out on the street by themselves with no backup. Personally, her son is a police officer and she listens to the scanner when he is working so she hears the calls. The radio system is not good. A lot of times they cannot hear each other and they get stuck in situations. She is also concerned about the firefighters. These people go out there every day and put their lives on the line. They walk out of their house; tell their families goodbye and don't know if they are coming back. Their jobs need to be looked at because if something happens at any of their homes, they want them to be there. They don't want to wait for one to come all the way across town because they don't have any police officers. They are losing firefighters too. They don't want their house to catch on fire and then they don't have

any firefighters because they are fighting a fire somewhere. She feels like this needs to be done to keep the guys they have and give them more pay so they can serve the community like they need to serve the community. She has lived here all her life; she is also representing Givens Insurance right now. They are comforted to know that if someone breaks into their business or robs them, they have those guys to come help. They would not have to wait so long for the guys to get there.

Mayor Doughtie thanked her for the comments. He assured her that those things have been looked at and they are trying to address it some in the budget. It is a difficult task. Tonight is not the night they will solve that problem. He agrees with her comments and all the employees are important and they value all of them. They will continue to try to make the best use of the taxpayer's money. They have not had any kind of revenue increase like the costs have increased. He stated she was right and they could go to other places and make more money.

Ms. Langley said it was sad because a lot of the police officers here graduated from the high school. They are home people and know the town. Same with the firefighters. It is nothing they don't know and it would be sad to let them go. She stated they could raise her taxes because she wants to see this town flourish and grow. She also wants to see the people that need the money, get the money. Everybody needs money, but these guys are leaving because there is nothing. They are losing them to the Highway Patrol or the Sheriff's Department. Same goes for the Fire Department.

Councilman Smith stated they were not the only town losing police officers and firefighters. He can understand what Ms. Langley is talking about. They are not able to pay them. They have two choices: raise taxes 4 or 5 cents or lay off other personnel to make up their salary. He asked if the police officers and firefighters want them to lay off employees so they can get a raise. That is a question to think about. They have worked hard on the budget and try to do the best thing they can.

Ms. Langley asked when the last time taxes were raised. Councilman Smith replied he believed ten years ago no including re-evaluation. She asked if they raised taxes, since it has been ten years, would that help everybody out. She does not want to see anybody get fired.

### **Brandon Thornton**

Mr. Thornton said he works for the sanitation department. He was here to speak on behalf of the sanitation crew. The police and fire need a raise as well as the sanitation workers. They (police officers/firefighters) come to your house on calls, they are at their houses once a week. The guys are on the back of the truck everyday and every week. The smells that come off that truck are hard to deal with and a lot of people

can't do it. A lot of guys have gotten cancer and other diseases from being on the back of those trucks. They work very hard at what they do every week. It is an 8-hour shift and they work at it the whole 8 hours everyday. Right now a lot of them feel that they are underpaid and nobody pays attention to what they do. This raise would be good for not just them, but the city as a whole because it would bring more people back to the community and bring new people into the community.

Mayor Doughtie stated those individuals in the sanitation department, especially those on the trash truck have a tough job. The City is very fortunate to have people that will do that job. He knows they do not get much appreciation, but they do appreciate it very much. If they think trash pick up is not important, miss a turn or two, and it gets real important real fast.

**Lakisha Jones**

Ms. Jones said she was the Senior Equipment Operator for Public Works. She has been with the City since January 3, 2000 with 23 years of service. She was here for a raise. She was all for a raise. She has met a lot of people and knows a lot of people. She stated they needed a raise, 5%. It's been a long time.

Mayor Doughtie said they appreciated all the City workers coming tonight.

Mayor Doughtie asked if there was anyone else wishing to speak. With no more comments, he closed the public hearing.

Mayor Pro Tem Ferebee asked if a holiday bonus was included in the proposed budget. City Manager Traynham replied yes. The holiday/Christmas bonus that has been offered by the City since she has been here for \$250. It could be of any value set by City Council in the budget. Longevity is also included for those who qualify.

Mayor Pro Tem Ferebee asked if the benefits have increased and were they included in the proposed budget. City Manager Traynham replied the costs are included in the budget. He asked if they were still including a 401k match. She replied yes, it was included in the budget. The City's match is up to 3% of the employee's contribution except for law enforcement which is a mandatory 5%.

Mayor Pro Tem Ferebee confirmed that although it has been indicated the City has not given a raise in ten years, didn't they give a \$3,000 bonus a year or two ago. City Manager Traynham said there was a \$3,000 salary increase for all employees. It was considered a cost of living adjustment, but was done by a fixed amount rather than a percentage.

Mayor Pro Tem Ferebee asked if they looked at a salary study and at compression within those departments. City Manager Traynham said they have started looking at those and it is in progress. They have initiated some in other departments so it has been a work in progress. It is an active effort to incrementally get people where they need to be. More money is needed in the budget to cover most of those expenses. He asked if they have started that and looking at doing that. City Manager Traynham replied yes.

Mayor Pro Tem Ferebee referred to page 13 of 14 for proposed budget general fund allocations. He said some had double-digit cuts to give a 5%. He noted several decreases in allocations. City Manager Traynham clarified that the Department Requested amount was their initial requests or as part of their "wish list." That column does not have any figures that were approved for this current fiscal year. The Manager Recommended column is what is recommended. Those differences are represented in what was initially requested by department heads versus what is recommended. It is not what was budgeted previously. Some may have been identified and taken care of now rather than in the upcoming budget.

Mayor Pro Tem Ferebee stated every single job with the City is important so he thinks they need to look at those as a whole. They would like to see a salary study; starting salary and compression. He explained that when a new person comes in and they are making about what someone that has been working there ten years is a deterrent; more so than anything else. If that happened to him that would cause him to leave quicker than anything else. He would like some of the monies they are proposing into those types of things. He was not saying to not give an increase but he would like to see some balancing there and look at those types of things.

Councilman Smith said he was looking over the City's ordinances and fees, there are a lot of roads torn to pieces because they are being dug up by someone else, not the City. The fee for them to dig up the road is \$400. They didn't pay the cost and after one year they are not obligated to keep them up. He asked if they were going to suggest changes for the budget at the next meeting or now. He would like to see the fees for digging up the City's streets go up to at least \$1,000. That would not affect the taxpayer; it would affect those tearing up the street. He also suggested putting it on a 4-year basis as opposed to a one-year basis. It would only revise one part of ordinance to do that. City Manager Traynham replied they would look at the rate structure on it and the legal perimeters on it. He asked if they were going to look at it this year or next year. She stated if this was the consensus of City Council and it is something they want to do then tonight is when staff needs City Council to say the things they want in the budget.

Councilman Smith said they need the revenue for people that are looking for raises. This is a way to not increase the taxes people pay. City Manager Traynham said the proposed fee schedule is behind tab 2 in their budget binders. Certain fees are established by general statute and cannot be changed. They have tried to go through and make incremental increases as appropriate. She was not sure when the last time the utility cut fee increased. They will look into that.

Councilman Smith stated there was one organization in town that cuts up the City's streets and doesn't pay a penny.

Mayor Doughtie asked Council members if there was a consensus to allow the City Manager and City Attorney to look at the general statutes to see if this would be permissible. All Council members agreed.

Attorney Davis verified the fee would be \$1,000 and a 4-year warranty on the section they dug up instead of just one year.

City Manager Traynham said some communities charge by the linear foot or square footage. There are alternative rate structures they can look at to build up some funds to help with paving.

Public Works Director Chalker added depending on how large of a process they make this with inspections and re-inspections and based on how long the warranty is, somewhere down the road they made need to assign one person to this process. If they don't inspect it or follow up on it, they would not know if the guidelines they set out are being followed. The City does not have a dedicated person that is currently doing that now because they do not have that much activity. He does think whatever price they assign to the street cut, it for sure needs more than a 1-year warranty.

Councilman Smith asked couldn't one of the supervisors that ride the City streets look at these things. Public Works Director Chalker replied they do ride the streets but they were looking at a lot of things. They would need to assign someone that specific responsibility, depending on the size of this program. Today they could do it very well, but if they start taking in hundreds of permits for thousands of dollars, they want to make sure they get it right.

Mayor Pro Tem Ferebee stated he was sure Public Works Director Chalker and City Manager Traynham could put something together and bring it back to them. He agreed a minimum should be \$1,000.

City Manager Traynham stated currently they do not collect a significant amount in



street cut fees. They can look at some different structures.

City Manager Traynham said the 5% COLA is recommended primarily because the cost of everything has gone up significantly for all employees regardless of how much they make. The City is behind on that. This budget means a lot to everyone in this room. The folks are here for one reason or another and a lot has to do with the budgeting decision by City Council with staff input and being able to make informed decisions. She appreciates the attendance from the City employees and their attention to this budget process. Since she has been with the City, she has never seen this many people interested in a budget before. When they start getting that participation and interest it shows people care about the work they do for the community. Public service is nowhere to make money, you do it because you care and it makes you feel good doing things for people. It becomes a passion and not a duty. She thanked the employees because she realizes they continue to ask them to do more for less. She appreciates what they are doing. They are all working together as a team to provide what is best for the community.

Mayor Pro Tem Ferebee said he would like to see a mix of what they do. He knows a 5% increase would not be the same for Kiesha in comparison to Larry and they are both doing a good job. When they say 5% it is all equity in his mind. He would like to see them come up with some kind of balance to make it more equitable for the employees. He's been at the top although he is retired now. At the same time, he was where they were. He took hits for his employees. There were times they had to take cuts and their cuts were bigger than their employee's cuts. They are not talking about cutting, they are talking about increases and they want it to be equitable. They need to come up with some balance that would be more equitable than an across the board.

Mayor Doughtie asked what percentage of the total budget goes towards salaries and benefits. City Manager Traynham replied 63%. Mayor Doughtie said for most businesses it is 50%. For employees that are just starting out with the City don't think about retirement. But when looking at someone like Ms. Jones who has been with the City for 23 years, she's looking down that road. She'll be able to have health insurance and a pension when she retires. Some places don't have that. They will listen to what they have told City Council tonight. He asked if it was legal for the City to survey the citizens about a tax increase.

Attorney Davis replied in a general sense that was what they do in every meeting. If City Council was considering a tax increase, they could do a public hearing or forum on that issue. This would give them a chance to come in and respond. He did not see anything improper about that. He believes Halifax County was on a four-year cycle for re-evaluation so that would be next year. That is going to affect the tax bill that

everyone receives whether City Council chooses to adjust the tax rate or not. Next year, some attention will need to be given to that. City Council at any time or with any issue they are considering can set a public and ask for the public's feedback.

City Manager Traynham added that an Ad Valorem Tax increase is supposed to occur during this public hearing process. They advertise the budget revenues and expenditures based on the tax rate to say there is no increase. She stated that is probably one of the reasons why people have not shown up at meetings with much interest. If they talked about raising taxes, it would definitely draw some attention. Now would have been the time to include it in the budget so if that was something they would want to do that would need to be put on the record tonight to make it happen. By law they will have to look at the tax rate next year after the evaluation. They will have the information by next February or March.

Mayor Doughtie said they have been told that based on the valuation if they raised taxes once-cent it would generate approximately \$115,000. City Manager Traynham confirmed based on current collections and valuations.

Councilwoman Bryant stated she understood that all employees received a total compensation statement during open enrollment and asked if they had received any comments. City Manager Traynham said some employees came in wondering where their additional funds were and there were some that said so what. Most of the insurances the City has to provide are mandated by the federal and state government. Councilwoman Bryant said 401k and holiday pay is optional. City Manager Traynham said 401k is voluntary and holiday pay depends on what is in the state laws. She added the optional benefits are the holiday bonus, longevity and the 3% 401k match.

Councilman Smith stated to the employees, the City Manager has set a budget and more than likely the budget will be approved, but he was not sure. Also, in the last 13 years, City Council has not increased their own pay one cent. They cut it 3%. They do not want to increase their money so the employees can't have anything. Everything needs to go to employees because they are the ones that keep the City going. He appreciates what every employee does for the City. Employees in all departments work hard for what little money they get.

Mayor Pro Tem Ferebee stated he hopes the employees don't think he doesn't appreciate what they do because he does appreciate all employees. He thinks a mix or a bonus plus a salary increase would be more appropriate. He has been on City Council a long time and he has seen a time when they had to cut employees. Now that's a problem. They need to have a balance. A mix would be in line and get everyone in line and more equitable.

Mayor Doughtie said they have two weeks before they would come back to approve the budget if City Council members or some individuals have some concerns.

City Manager Traynham reported with direction from City Council, staff issued a poll for employees on their preference concerning a cost of living adjustment or bonus. An overwhelming majority supported a 5% COLA. Of course, everyone sees the benefits of a bonus. She would like to maintain the 5% COLA but if they want to add additional funding for merit increases and other opportunities for salary growth, they can do that separately. The cost of living is intended to help everyone with their day-to-day expenses.

Councilwoman Bryant said if they had the salary survey, they would be able to see that more clearly. They would know that employees were being rewarded in the stages where they are as compared to other cities. That hasn't happened here. She has only been here four years and she thinks something has been given every year since she has been on City Council. It may not have been a cost of living adjustment but monies have been given to employees. They have continued to have their benefits fully paid and she still does not think employees appreciate all that. If they were listening, it was stated longevity, 401k match and holiday bonus is optional. The City is not mandated to do that, but they have been doing it along with a cost of living adjustment or some type of bonus for the past few years. The City only has a certain amount of money. If people don't pay their taxes, there is not so much they can do. They do not want to cut employees or benefits. Some people don't appreciate the cost of benefits. If they increase the COLA by 5%, the benefits costs are going to go up by 5%. Next year, that is where they would start again. She hopes they all understand that they appreciate what they do, honestly, they do. They want to see everyone rewarded for what they are doing.

Mayor Pro Tem Ferebee explained the scenario of getting a lower percentage COLA plus a bonus and how that would be more money as opposed to a 5% COLA. Plus employees would get a bonus to spend now as opposed to 5% COLA being spread out over 12 months.

Councilman Stainback thanked Mr. Thornton, Ms. Langley and Ms. Jones for their words. It is very important for City Council to hear from them.

## **Old Business**

### **Roanoke Rapids Theatre Update**

City Attorney Davis stated at the Special Meeting on May 22, 2023, City Council agreed to accept an offer from TheVictor Enterprises for \$1,750,000 for the purchase

of the Roanoke Rapids Theatre by the procedure set out under NCGS 160A-269 and to cancel the public auction with GovDeals that was scheduled. When City Council accepted the offer, the Offeror was under an obligation to deposit a certain amount with the City so the City could begin its process of advertising the accepted bid for the upset bid period to comply with the statutes related to competitive bidding. He reported that has not been done as of today. Over the past 10 days/2 weeks he's had several discussions with both Victor Freeman and his attorney, and received several statements that they would have the deposit in by a certain date. For whatever reason, that could not be done. He spoke with both Mr. Freeman and his attorney today and they indicated they do have the funds for the deposit, but they are being held because they had to move some money around; they would not be able to pay it until tomorrow. Throughout this conversation, he indicated that the City had an interest in going ahead and receiving this so they can comply with the process. He had originally suggested to them that it be done by Tuesday of last week. It did not happen. He made it clear to them that a City Council meeting was scheduled for June 6<sup>th</sup> where he was going to update City Council. He told them they could possibly take some action on that and their failure to comply with the deposit. He believes they understand that is the case. He stated that is where things are now and that is the update.

Mayor Doughtie asked what was the action City Council could take.

Attorney Davis replied the first option is City Council could decide to wait until the next City Council meeting to see whether they pay the deposit. If TheVictor Enterprises makes the deposit that would trigger the advertisement and the 10-day upset bid period process. If they don't pay the deposit, he would give City Council option two which is to consider rescinding the acceptance of their offer to purchase. If City Council chose to do that, they would need a motion to rescind the resolution that was adopted last time. He stated if City Council is going to take some action tonight, they need to make a decision. He asked if decided to continue where they are it would mean they table it and see where things are at the next City Council meeting or if City Council wants to consider rescinding the acceptance of the offer to purchase at this time. If City Council does that tonight or in the meeting two weeks from now, they could choose to put the Theatre back up for auction. There would be another 30-day notice period before the auction could open, but it would not necessarily have to be open for 30 days. He announced he received an offer from Wellman & White, PLLC right before the meeting today. They represent the same group of buyers which may have changed in the make-up of the group that made the previous offer. He stated this offer was essentially the same offer that was on the table tendered by Mr. White on behalf of a group at the Special Meeting last month. The offer has been retendered for \$1,500,000. He understands from speaking with Mr. White that he currently has in his trust account the initial deposit if City Council were to accept the offer tonight.

Attorney Davis said if City Council decided to accept the offer from Wellman & White, PLLC, City Council would need to rescind the offer from TheVictor Enterprises. Mr. White then would come by and pay the deposit tomorrow. The City would give notice of the beginning of the upset bid period. Receive any upset bids and at the end of the 10-day upset bid process, all bids received would be opened. He noted all bids must be sealed and submitted with the deposit. At the end of the 10 days, the sealed bids are opened and reviewed by the City Clerk and the highest qualifying bid would be accepted by the City Clerk. That starts a new upset bid process again. The City would go through this process until there are no more qualifying bids received. At that point, whenever the next City Council meeting is held, City Council would have a vote on whether they wanted to accept the highest bid or reject all bids.

He summarized the status by stating the \$1.5 million offer has been retendered and TheVictor Enterprises has not paid the deposit for the \$1.75 million offer but says he can have it tomorrow.

Councilman Smith asked Attorney Davis if Mr. Freeman told him he would have the deposit by May 31<sup>st</sup>. He replied that he was told he would have it last week. Councilman Smith said now Mr. Freeman was saying he would have it by June 7<sup>th</sup>. If they agree to certain terms like that and if he doesn't pay it tomorrow City Council cannot do anything for two weeks. Attorney Davis said unless they held a called meeting; that would be the only other way. City Council would have to take action. It is not a situation where City Council could decide tonight to give Mr. Freeman until 12 p.m. tomorrow to pay the deposit or this contingency would take place to accept the \$1.5M offer or do something else. It cannot be that kind of complex.

Councilman Smith confirmed that according to Roberts Rules of Order since he voted against the resolution then he could not make a motion to rescind the resolution. Attorney Davis replied that was correct.

Mayor Pro Tem Ferebee clarified that in the last meeting City Council did not give a specific timeframe for Mr. Freeman to pay that deposit. Attorney Davis replied they did not.

Mayor Pro Tem Ferebee questioned if the City could get sued by changing their mind without giving him a specific time to pay the money. Attorney Davis replied no for several reasons. The most essential reason is because City Council did not specify a timeline. If they specified a timeline and cut it short that would be a different story.

In looking at the case law with respect to the procedure they are talking about now which is the offer of private sale of City property under NCGS 160A-269, the courts have taken the position that the purpose of the process is that the City gets the

highest possible amount for City property. There is no way to get around the competitive bidding process. The reason it exists like that through this 10-day upset bid period process is to make sure that firstly, interested bidders have a fair opportunity to tender an offer and have that offer accepted and secondly, so the municipality gets the most money for that asset.

Attorney Davis said there has been discussions about the value of the Theatre and the amount of money to construct it and its value today. What matters is the fair market value of the asset, not how much money you have sunk into it. Regardless of how much money has been spent on it, they have to determine what the fair market of this asset is today in 2023. The way it is determined is through this competitive bidding process. That may be different from what people are used to in their everyday lives.

He explained that if City Council were to rescind this item today and go through a public auction, and TheVictor Enterprises has the deposit tomorrow or later on, they can submit that in the public bid process. That would essentially cut the legs out from under them from a legal standpoint as far as them saying they did not get their opportunity. The same goes if they rescind their offer and go with the \$1.5 million offer. There would be an upset bid process again. If TheVictor Enterprises gets that amount tomorrow or within the 10-days and tenders the bid with the upset bid amount, then they have an opportunity. The competitive bid process cuts out any legal liability. Unless City Council wants to hold on the Theatre and not sell it which is not the sense he's had.

Mayor Doughtie stated with the 10-day upset bid process, anybody that wants to buy it has a chance to buy it, and it may be someone the City has not even heard from. If City Council turned down the \$1.75 million and accepts the new offer of \$1.5 million that is less, the individual that submitted the \$1.75 million could actually offer less than his original offer and still be outbidding the \$1.5 million offer. Attorney Davis replied that was correct and the deposit would be less. Mayor Doughtie stated if the bidding ended at that point, the individual would actually save money. Attorney Davis stated possibly.

Attorney Davis said in the last meeting there was a question about whether the City Council could accept an offer that was potentially lower if they thought they had a better business plan. Looking at the case law again, the courts say this process is to make sure City Council gets the highest possible price. That is irrespective of what the intended use is of the business owner or individual choosing to purchase the property. At the end of the upset bid process, whatever the highest possible bid is will be the only one City Council can consider from a legal standpoint. City Council can

either reject all bids or accept the highest. With the way this process works that doesn't come into it from a legal standpoint.

Mayor Doughtie stated all City Council needs to do is make a decision from one of the options they have. Attorney Davis stated that City Council needs to first consider whether to table the matter and give TheVictor Enterprises time to submit the required deposit amount or rescind the acceptance of their offer. Once they get through that threshold issue then City Council can address what they want to do otherwise. If they table the issue, then no other decision needs to be made at this point.

Councilman Smith recalled asking Attorney Davis how much time did the City have to give TheVictor Enterprises, he replied there was no time limit in the statutes. He asked if that was correct. Attorney Davis replied that was correct. Councilman Smith continued to recall that then the City Manager said normally it would be 5 business days which would have been the day after Memorial Day. Then he asked if June 6<sup>th</sup> would be the deadline and City Attorney Davis replied absolutely. He asked if that was correct. Attorney Davis replied to the extent that City Council would have an opportunity at this meeting to take action. Councilman Smith said he believed that was statement enough that City Council gave him a deadline of June 6<sup>th</sup>. Attorney Davis stated it was definitely communicated to them by him.

City Manager Traynham concurred with the dialogue and stated it was her understanding that since they were not meeting again until June 6<sup>th</sup> and whatever happened by June 6<sup>th</sup>, they would present an update at the meeting. That is what they were doing tonight which is an update based on the information they had.

Mayor Pro Tem Ferebee asked if they voted on that or was communicated that. Attorney Davis said the deadline was not part of the resolution. City Council can take action tonight; their hands are not tied.

Mayor Pro Tem Ferebee clarified that if City Council accepted the \$1.5 million offer tonight and then received an upset bid from TheVictor Enterprises, by statute City Council must accept the highest bid or reject all. Attorney Davis explained once the upset bid process is completed and whatever that final bid, it comes back before City Council. They either accept that highest bid whoever it is or reject all. He added that when the final bid comes back before City Council and they accept the highest bid, there will be a new resolution with some conditions spelled out as far as City Council's acceptance of that bid. Those conditions can set timelines in negotiating the real estate contract and things like that.

City Manager Traynham stated when City Council accepts a proposal, they do not accept the contract, it is only the proposed amount or bid. Even if City Council accepts this proposal tonight and move forward to the 10-day upset bid process, they were not committing to any of those terms in the proposal. That would come down the road.

Mayor Pro Tem Ferebee said he understood they could create their own timeframe but asked what the document they received said. He asked if the City would get the full amount after the 30 or 60 days. Attorney Davis replied it states once the contract of sale is negotiated it would be a total of 90 days.

Councilwoman Bryant asked if they rescind the \$1.75 million offer and then accept the \$1.5 million offer and they deliver \$75,000 deposit tomorrow, does the 10-day upset bid start tomorrow. City Manager Traynham replied the upset bid process does not start until the deposit is received by the City and the public notice/advertisement is made.

Attorney Davis stated that whatever happens tonight, he would have a conversation with both Mr. White on behalf of this group and Mr. Freeman's attorney for TheVictor Enterprises.

Councilman Daughtry confirmed that from this time forward it would be all cash/certified check and no more saying they will bring money tomorrow and things like that. Attorney Davis replied that was correct. Once the initial deposit is received and they go into the upset bid process, any future bids that come in have to be tendered with the funds to satisfy whatever the deposit amount is. There is a formula that determines that amount. City Manager Traynham added that it would be a sealed bid process. Bids will be received in sealed, marked envelopes and at the end of the 10-day period they will be opened and read to maintain an ethical process.

Motion was made by Councilman Stainback, and seconded by Councilman Daughtry to rescind Resolution No. 2023.05 authorizing the sale of the Roanoke Rapids Theatre to TheVictor Enterprises. Councilman Stainback, Councilman Daughtry and Councilman Smith voted in favor of the motion. Mayor Pro Tem Ferebee and Councilwoman Bryant voted against. Motion carried by a 3-2 vote.

Mayor Doughtie asked since they have rescinded the offer of \$1.75 million, does City Council wish to move forward with the new offer of \$1.5 million.

Attorney Davis stated they could move forward with the new offer; they could set up a new auction, or could table it until the next meeting. Any of those options are available. It may be better to get a consensus first in order to help the Clerk who has



to record it. Also, if a majority of the City Council chooses to accept the \$1.5 million offer, a new resolution needs to be drafted and adopted by City Council. They have a draft of a resolution on hand.

Councilman Stainback and Councilman Daughtry stated they were in support of the \$1.5 million offer.

Mayor Pro Tem Ferebee asked if there was a resolution number. Attorney Davis replied they had a draft that can be filled in if City Council came to a consensus to accept the offer. He stated the resolution was basically identical to the one accepting the offer from TheVictor Enterprises with changes in the parties and amounts.

City Clerk Storey was asked to draft a resolution for City Council's consideration. Attorney Davis presented the following resolution:

**RESOLUTION NO. 2023.09**

**RESOLUTION OF THE ROANOKE RAPIDS CITY COUNCIL  
AUTHORIZING DISPOSAL OF REAL PROPERTY  
PURSUANT TO N.C. GENERAL STATUTE 160A-269**

**WHEREAS**, the City of Roanoke Rapids is the owner of real property located within the Carolina Crossroads Music & Entertainment District, Roanoke Rapids, Halifax County, North Carolina.

**WHEREAS**, the property consisting of one lot is published for sale by the City described as follows:

*Parcel ID 1205489, Hwy. 125, Carolina Crossroads Music & Entertainment District, Lot 1.*

**WHEREAS**, N.C. General Statute 160A-269 permits the City to sell property by upset bid, after receipt of an offer for the property; and

**WHEREAS**, the City has received an offer to purchase the property described above, for the amount of \$1,500,000, submitted by Wellman & White, PLLC, and/or assigns;

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

Section 1. The City Council authorizes sale of the property described above through the upset bid procedure set forth in N.C. General Statute 160A-269.

Section 2. The City Clerk shall cause notice of the proposed sale to be published upon payment of the statutorily required five percent (5%) deposit for the property in their offer. The notice shall describe the

property and the amount of the offer, and shall state the terms established by this resolution under which the offer may be upset.

Section 3. Persons wishing to upset the offer that has been received shall submit a sealed bid with their offer to the office of the City Clerk within 10 days after the notice of sale is published. At the conclusion of the 10-day period, the City Clerk shall open the bids, if any, and the highest such bid will become the new offer. If there is more than one bid in the highest amount, the first such bid received will become the new offer.

Section 4. If a qualifying higher bid is received, the City Clerk shall cause a notice of upset bid to be published, and shall continue to do so until a 10-day period has passed without any qualifying upset bid having been received. At that time, the amount of the high bid shall be reported to the City Council.

Section 5. A qualifying higher bid is one that raises the existing offer by not less than ten (10%) of the first \$1,000.00 of that offer and five percent (5%) of the remainder of that offer.

Section 6. A qualifying higher bid must also be accompanied by a deposit in the amount of five percent (5%) of the bid; the deposit may be made in cash, cashier's check, or certified check. The City will return the deposit on any bid not accepted, and will return the deposit on an offer subject to upset if a qualifying higher bid is received. The City will return the deposit of the final high bidder at closing.

Section 7. The terms of the final sale are that:

- a. The City Council must approve the final high offer before the sale is closed, which it will do within thirty (30) days after the final upset bid period has passed, and
- b. The buyer must pay with cash, cashier's check or certified funds at the time of closing.

Section 8. The City reserves the right to withdraw the property from sale at any time before the final high bid is accepted and the right to reject at any time all bids.

Section 9. If no qualifying upset bid is received after the initial public notice, the offer set forth the above is hereby accepted. The appropriate City officials are authorized to execute the instruments necessary to convey the property to Wellman & White, PLLC, their successors and/or assigns.

**ADOPTED** this 6<sup>th</sup> day of June, 2023.

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Emery G. Doughtie, Mayor

ATTEST:

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Traci V. Storey, City Clerk

Mayor Pro Tem Ferebee asked if there was a timeframe for the deposit to be submitted. Attorney Davis replied no, but Attorney Bill White told him the \$75,000 was being held in his trust account and it would be paid tomorrow. He was certain that this was true.

Mayor Pro Tem Ferebee stated his only concern was they were giving up \$250,000 for a day. If that was the case then there should be some timeframe on when the rest is paid. He was good with it being tomorrow, but it should be some timeframe on the balance.

Attorney Davis stated to the public that this was the process. It is more complicated than buying a house; they are dealing with a piece of City property. The Legislature has set out some very specific rules on how this process goes. Some of the processes are not worded as clearly or modern as he would like them to be. Maybe that will be something the NC League of Municipalities needs to consider discussing in the future.

Motion was made by Councilman Smith, seconded by Councilman Stainback, and unanimously carried to adopt Resolution No. 2023.09 authorizing the disposal of real property pursuant to NC General Statute 160A-269 to Wellman & White, PLLC, for \$1,500,000.

Mayor Doughtie called for a 5-minute break.

## **New Business**

### **Consideration of NCDOT Sweeping Agreement**

Public Works Director Chalker stated in the past, City Council has authorized the Mayor to execute an agreement with NCDOT for the City to perform routine sweeping of various streets and bridges within the corporate limits on an as needed basis. One-year extensions have been requested and granted each year and NCDOT is again requesting that the City Council extend this agreement for an additional period of one year (through June 1, 2024). A copy of the letter from Mr. Jeremy Creech, Bridge Engineer for NCDOT is attached. He added this generates \$10,000 in revenue for the City's labor to sweep the Gaston bridge.

Motion was made by Councilman Smith, seconded by Mayor Pro Tem Ferebee and unanimously carried to extend the sweeping agreement (Agreement No. 7951) with the NC Department of Transportation for a period of one year (through June 1, 2024) and to authorize Mayor Doughtie to execute the attached letter.

### **Consideration of Municipal Insurance Trust Interlocal Agreement**

City Manager Traynham stated she wanted to present the next three items of business in one although there are three separate resolutions. City employees strive to be as fiscally responsible as possible. In those efforts they hear about grant opportunities, assistance programs with funding, resources and benefits. She has noticed in the last couple of years, when the NC League of Municipalities (NCLM) talks about the resources they have, the City was unable to participate because they were not covered by their insurance programs. Naturally, she asked how they could get covered and what would it take.

She said the next three items for consideration are based upon the City forming an agreement through the NCLM so they can participate in their insurance pools for Workers' Compensation, Property & Liability; everything except for health insurance. The City's health insurance remains locally with G.W. Hux & Company.

City Manager Traynham recognized and thanked Jesse Manning with the Public Works Department. She has been very helpful in obtaining the information and data. She appreciated her dedication and attention to detail in working through this process. It wasn't just Ms. Manning, but she took the lead role on it. It also included all the department heads and City Attorney as far as answering questions.

She announced they were pleased to find out that the NCLM offering these insurance coverages is at a better rate than what they were currently paying and not receiving the additional benefits from the NCLM. The NCLM's benefits include training opportunities, grant application processes, donations of materials and equipment and a lot of guidance that is intangible.

City Manager Traynham reported the insurance coverage would begin on July 1, 2023. The term would back date a couple of years and be retroactive to any claims they do not know about right now. The process would be for City Council to adopt the resolutions and the approval of the interlocal agreements.

Attorney Davis strongly encouraged City Council to consider this. He has dealt with the City's current insurance carrier, Tokio Marine several times. He has been happy with them. The rates the NCLM offers is better; they are procurer to NC municipalities. The training opportunities and resources available are a degree above anything else that the City would have the benefit of with a different carrier.

### **Resolution No. 2023.06**

**Governing Body Resolution  
of the City of Roanoke Rapids**

**WHEREAS**, certain municipalities and other units of local government of the State of North Carolina, as defined in G.S. 160A-460(2), have agreed to create the MUNICIPAL INSURANCE TRUST OF NORTH CAROLINA and have agreed to pool the risks associated with the provision of benefits for their designated benefit plan participants pursuant to, and to be governed by, the provisions of North Carolina General Statutes 160A-460 *et seq.* (Part 1 of Article 20 of Chapter 160A);

**NOW, THEREFORE, BE IT RESOLVED** that the above-named unit of local government elects to become a member of the MUNICIPAL INSURANCE TRUST OF NORTH CAROLINA upon the terms and conditions stated in the “Interlocal Agreement for a Group Self-Insurance Pool For Benefit Risk Sharing,” with such future policy renewals constituting a continuing ratification of this decision to be a member of the Trust and abide by the terms and conditions of the Interlocal Agreement.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the duly authorized officials of the above named unit of local government are directed to execute in the name of said unit the “Interlocal Agreement for a Group Self-Insurance Pool For Benefit Risk Sharing,” a copy of which is attached to and made a part of this Resolution.

*I certify that this is a true and correct copy of this Resolution, duly adopted by the governing body on the 6<sup>th</sup> day of June, 2023, as it appears of record in its official minutes.*

CITY OF ROANOKE RAPIDS

By: \_\_\_\_\_  
(*Emery G. Doughtie, Mayor*)

ATTEST: \_\_\_\_\_  
(*Traci V. Storey, City Clerk*)

Motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Smith and unanimously carried to adopt Resolution No. 2023.06 authorizing the City of Roanoke Rapids to enter into the Municipal Insurance Trust Interlocal Agreement for a Group Self-Insurance Pool for Benefit Risk Sharing.

**Consideration of IRFFNC Interlocal Agreement for Property & Liability Insurance**

The following resolution was presented to City Council:

**Resolution No. 2023.07**

**Governing Body Resolution  
of the  
City of Roanoke Rapids**

**WHEREAS**, certain municipalities and other units of local government of the State of North Carolina, as defined in G.S. 160A-460(2), have agreed to create the INTERLOCAL RISK FINANCING FUND OF NORTH CAROLINA and have agreed to pool the risks of their exposure to property losses and

potential liabilities in the manner herein provided pursuant to, and to be governed by, the provisions of North Carolina General Statutes 160A- 460 *et seq.* (Part 1 of Article 20 of Chapter 160A);

**NOW, THEREFORE, BE IT RESOLVED** that the above named unit of local government elects to become a member of the INTERLOCAL RISK FINANCING FUND OF NORTH CAROLINA upon the terms and conditions stated in the “Interlocal Agreement for a Group Self-Insurance Pool For Property and Liability Risk Sharing,” with such future policy renewals constituting a continuing ratification of this decision to be a member of the Fund and to abide by the terms and conditions of the Interlocal Agreement.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the duly authorized officials of the above-named unit of local government are directed to execute in the name of said unit the “Interlocal Agreement for a Group Self-Insurance Pool For Property and Li- ability Risk Sharing,” a copy of which is attached to and made a part of this Resolution.

*I certify that this is a true and correct copy of this Resolution,  
duly adopted by the governing body on the 6th day of June, 2023,  
as it appears of record in its official minutes.*

CITY OF ROANOKE RAPIDS

By: \_\_\_\_\_  
(*Emery G. Doughtie, Mayor*)

ATTEST: \_\_\_\_\_  
(*Traci V. Storey, City Clerk*)

Motion was made by Councilwoman Bryant, seconded by Mayor Pro Tem Ferebee and unanimously carried to adopt Resolution No. 2023.07 authorizing the City of Roanoke Rapids to enter into an Interlocal Agreement for a Group Self-Insurance Pool for Property & Liability Risk Sharing.

**Consideration of NCIRMA Interlocal Agreement for Workers’ Compensation Insurance**

The following resolution was presented to City Council:

**Resolution No. 2023.08**

**Governing Body Resolution  
of the  
City of Roanoke Rapids**

**WHEREAS**, certain municipalities and other units of local government of the State of North Carolina, as defined in G.S. 160A-460(2), have agreed to create the NORTH CAROLINA INTERLOCAL RISK MANAGEMENT AGENCY and have agreed to pool the risks of their workers’ compensation liabilities and payment of claims for employers’ liability coverage pursuant to, and to be governed by,

the provisions of North Carolina General Statutes 160A-460 *et seq.* (Part 1 of Article 20 of Chapter 160A);

**NOW, THEREFORE, BE IT RESOLVED** that the above named unit of local government elects to become a member of the NORTH CAROLINA INTERLOCAL RISK MANAGEMENT AGENCY upon the terms and conditions stated in the “Interlocal Agreement for a Group Self-Insurance Pool For Workers’ Compensation Risk Sharing,” with such future policy renewals constituting a continuing ratification of this decision to be a member of the Agency and to abide by the terms and conditions of the Interlocal Agreement.

**NOW, THEREFORE, BE IT FURTHER RESOLVED** that the duly authorized officials of the above named unit of local government are directed to execute in the name of said unit the “Interlocal Agreement for a Group Self-Insurance Pool for Workers’ Compensation Risk Sharing,” a copy of which is attached to and made a part of this Resolution.

*I certify that this is a true and correct copy of this Resolution, duly adopted by the governing body on the 6<sup>th</sup> day of June, 2023, as it appears of record in its official minutes.*

CITY OF ROANOKE RAPIDS

By: \_\_\_\_\_  
(*Emery G. Doughtie, Mayor*)

ATTEST: \_\_\_\_\_  
(*Traci V. Storey, City Clerk*)

Motion was made by Councilman Daughtry, seconded by Councilman Stainback and unanimously carried to adopt Resolution No. 2023.08 authorizing the City of Roanoke Rapids to enter into an Interlocal Agreement for a Group Self-Insurance Pool for Workers’ Compensation Risk Sharing.

<b>City Manager’s Report</b>
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City Manager Traynham reported the delivery of the Chaloner restroom building has been delayed a couple of weeks. The City has completed everything on its part and is awaiting the arrival of building.

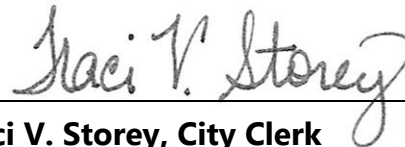
She announced tonight at 6 p.m., there was a graduation ceremony at Halifax Community College for the BLET program. The City sponsored four cadets in that program. All four passed the State exam. They will begin the 12-week field training program as soon as possible.

City Manager Traynham said this is the last week of school for many of the local school systems. There will be a lot of kids out and about as they get their summer started. They will see an increase in activities at the City's facilities.

Mayor Pro Tem Ferebee asked about the letter in reference to some drainage issues and whether it had been addressed. City Attorney replied yes, a response was tendered in writing the end of last week. He stated Council members could contact him if they wanted to know more about his response letter. He added the City has those issues and a lot of the time it does not come to City Council. Public Works deals with those issues regularly and they contact him. They look at deeds and information on file with the City and make a determination on it. They try to be fair to the homeowner, but they do not want the City to expend public money to remedy conditions that are completely on private property.

<b>Adjournment</b>
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There being no further business, motion was made by Councilman Smith, seconded by Mayor Pro Tem Ferebee, and unanimously carried to adjourn. The meeting was adjourned at 7:50 p.m.



\_\_\_\_\_  
Traci V. Storey, City Clerk

**Approved by Council Action on: June 20, 2023**