MINUTES OF A REGULAR MEETING OF VINTON TOWN COUNCIL HELD AT 7:00 P.M. ON TUESDAY, DECEMBER 3, 2019, IN THE COUNCIL CHAMBERS OF THE VINTON MUNICIPAL BUILDING LOCATED AT 311 SOUTH POLLARD STREET, VINTON, VIRGINIA

MEMBERS PRESENT:
Bradley E. Grose, Mayor
Keith N. Liles, Vice Mayor
Sabrina McCarty
Janet Scheid
Michael W. Stovall

STAFF PRESENT:
Barry W. Thompson, Town Manager
Susan N. Johnson, Executive Assistant/Town Clerk
Mike Lockaby, Town Attorney
Pete Peters, Assistant Town Manager/Director of Economic Development
Anne Cantrell, Finance Director/Treasurer
Tom Foster, Police Chief
Anita McMillan, Planning & Zoning Director
Joey Hiner, Public Works Director
Fabricio Drumond, Assistant Police Chief
Nathan McClung, Principal Planner

The Mayor called the regular meeting to order at 7:00 p.m. The Town Clerk called the roll with Council Member McCarty, Council Member Stovall, Vice Mayor Liles and Mayor Grose present. Council Member Scheid was absent

Roll call

Council Member Scheid arrived at the meeting at 7:04 p.m.

After a Moment of Silence, Chasity Barbour led the Pledge of Allegiance to the U.S. Flag.

Under upcoming community events, Council Member McCarty announced the following: December 9 – 9:30 a.m.-3:30 p.m. – Flood Insurance Symposium – War Memorial followed by a Flood Insurance Open House – 6:00-8:00 p.m. – Charles Hill Community Center; December 4 – 7:30 a.m. – State of the Town – War Memorial; December 5:00-6:00 p.m. – Downtown Tree Lighting followed by the Christmas Parade at 7:00 p.m.; December 12 – 6:00-9:00 p.m. - Town of Vinton Night at Illuminights – Explore Park; December 19 – 5:00-7:00 p.m. – Vinton Area Chamber of Commerce Holiday Open House – Charles Hill Community Center and December 10-12 – A Christmas Carol – 7:00 p.m. – Star City

Playhouse. Council Member McCarty also commented on the success of the Christmas event sponsored by the Vinton Breakfast Lions Club for children at the two elementary schools and asked that everyone remember the Tommy Overstreet family. Chasity Barbour showed a print designed by an artist that was at the Fall Festival that has all of the landmarks in Vinton. The prints along with bags will be on sale through the Vinton Area Chamber of Commerce.

Under requests to postpone, add to or change the order of agenda items, the Town Manage requested to add under Item K, Town Manager, Section 1, Briefings, a new Item (f), briefing on the Special Use Permit (SUP) Request of Bank of Botetourt for a Drive-Up/Drive-Thru Facility in Conjunction with their Proposed Bank Building, located at 410 S. Pollard Street, Tax Map Number 060.16-09-01.00, Zoned CB Central Business District.

Council Member Scheid made a motion to approve the requested addition to the agenda as presented; the motion was seconded by Vice Mayor Liles and carried by the following vote, with all members voting: Vote 5-0; Yeas (5) – McCarty, Scheid, Stovall, Liles, Grose; Nays (0) – None.

Approved adding under Item K, Town Manager, Section 1, Briefings, a new Item (f), briefing on the Special Use Permit (SUP) Request of Bank of Botetourt for a Drive-Up/Drive-Thru Facility in Conjunction with their Proposed Bank Building, located at 410 S. Pollard Street, Tax Map Number 060.16-09-01.00, Zoned CB Central Business District

Council Member Stovall made a motion to approve the Consent Agenda as presented; the motion was seconded by Council Member McCarty and carried by the following vote, with all members voting: Vote 5-0; Yeas (5) – McCarty, Scheid, Stovall, Liles, Grose; Nays (0) – None.

Approved minutes of the Regular Council Meeting of November 5, 2019

The next item on the agenda was the introduction of a new Police Officer. Chief Foster made brief comments and introduced Officer Justin Baker.

The next item on the agenda was the presentation of a Police Department Certificate of Recognition Award. Assistant Chief Drumond made comments regarding the National Night Out Event held on August 6th and after reading the Certificate, presented the same to Sergeant Mike Caldwell for his leadership on the event.

The next item on the agenda was the presentation of Certificate of Distinguished Budget Presentation Award for the Fiscal Year beginning July 1, 2019 awarded to the Treasurer/Finance Department. Anne Cantrell first commented on the handout provided to Council that showed the grading that was received each year from GFOA and how they have improved each year. This is the fourth year the Town has received this award and she expressed appreciation to Council and staff for their part in the completion of the budget and the budget document. The Mayor presented the award to Ms. Cantrell and Brandon Gann, Financial Analyst, with the Finance Department.

The next item on the agenda was a presentation on Upcoming Innovation Mill Forum at Vinton War Memorial. Debbie Custer, curator of hemp products at the Innovation Mill on Pollard Street, first commented on the hemp plant and showed samples of products that are produced from hemp. In response to a question on how hemp was chemically and structurally different from marijuana, Ms. Custer explained that hemp and marijuana both come from the cannabis strain and compared them to different types of grapes and corn that are used for different products, but look the same. It was her understanding that the State of Virginia was going to be the first in the Country to have access to a test that will immediately determine if the THC level is higher than the CBD level. If it is, that is marijuana. She has offered all of her plant varieties in the hemp mill to be utilized as testing agents when the tests arrive in the Town.

Ms. Custer further commented that she wants to build a community involvement. To process for seed and fiber, you have to have a processing facility and the farmers engaged and there are several locations around here that would work. On December 11th from 9:00 a.m. to 2:00 p.m., there will be a forum at the War Memorial with a hemp food lunch and she invited Council to attend.

The next item on the agenda was the public opening of Franchise Bids for Small Cell Wireless Franchise. The Mayor commented that Cox Communications had submitted a proposal for a franchise for small cell facilities entitled "Temporary Nonexclusive Revocable Wireless Facilities License Agreement". The Mayor next asked if there were any other persons desiring to submit a bid at this time and there being no further bids, the bidding was closed.

The Mayor next asked for a motion to direct the Town Manager and the Town Attorney to enter into negotiations with Cox Communications and report back to Council at their December 17, 2019 meeting. Vice Mayor Liles made the motion as requested and the motion was seconded by Council Member Stovall.

Following the motion, there was discussion regarding the order of the steps in the process to award a License Agreement. The Town Attorney commented that by the time the awarding of the License Agreement went to Public Hearing and is adopted sometime in January that all of the necessary Ordinances would be in place. The action tonight is to allow the Town Manager and Town Attorney to contact Cox and begin working through the terms of the Agreement and report back to Council on December 17th.

After further comments and discussion regarding the desires of Council on the placement of the small cell facilities, the Town Attorney commented that he and the Town Manager have heard Council's concerns and that they want to incentivize Cox toward placing them onto Town buildings or other assets owned by the Town rather than on the ornamental light poles in the downtown area. We do not know what they are going to be willing to agree to until we ask. A big part will be the price because you can put different prices based upon whether they want to be in the rights-of-way or on Town structures.

The motion was carried by the following vote, with all members voting: Vote 5-0; Yeas (5) – McCarty, Scheid, Stovall, Liles, Grose; Nays (0) – None.

Approved directing the Town Manager and the Town Attorney to enter into negotiations with Cox Communications and report back to Council at their December 17, 2019 meeting

The next item on the agenda was a briefing on proposed Ordinance to amend Chapter 82, Streets, Sidewalks, and Other Public Places, Article I, In General, Sections 82-17 and 82-18, add a new Section 82-19 and add a new Article V, Mopeds, Bicycles and Electric Power-Assisted Bicycles, Scooters, and Skateboards to the Vinton Town Code. Nathan McClung first commented that these amendments relate to moped regulations and allows the Town to have a dockless mobility operations program. Mr. McClung next reviewed a PowerPoint presentation, which was a part of the agenda package and will be on file in the Town Clerk's Office as a part of the permanent record.

There was discussion regarding the enforcement of the regulations that scooters not be parked on the sidewalks. The Town Attorney commented that any agreement with a company should include language that would indemnify the Town if an ADA lawsuit was filed. With regard to the permit application procedures, Mr. McClung asked Council to consider the amount of the permit fee. After discussion, the Town Manager recommended that Mr. McClung prepare a comparative analysis on communities similar to the Town and report back to Council.

After further comments and discussion, the Town Manager commented that we have to have an Ordinance in place by January 1, 2020; however, we can make changes after it is adopted. In response to a question asking if we could require that users of scooters carry an ID, Mr. McClung commented that he did not believe we would have the authority to do that, but he would research it further and report back to Council.

The next item on the agenda was a briefing on proposed Ordinance to amend Chapter 10, Animals, Article I, In General, of the Vinton Town Code. Chief Foster first commented that this proposed Ordinance relates to some problems in Town as a result of animal owners not properly controlling their dogs. The current Town Code does not address situations where a person is attacked or bitten by an animal in a manner that does not meet the definition of a dangerous or vicious dog or where property is damaged as a result of animal owner not taking reasonable

care or precautions. In the Virginia State Code, Section 3.2-6540, a canine or canine crossbreed that has bitten, attacked or inflicted injury on a person is not a dangerous dog if upon investigation of law enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists only of a single nip or bite resulting in a scratch, abrasion or other minor injuries. Essentially there is a lot of room for interpretation in our current ordinance and the State Code of what constitutes an injury. The proposed Ordinance would make our Town Code a little more flexible and cover some of these gray areas such as when a person is bitten by an animal, but the injury is not serious and becomes a habitual problem with a particular dog or a canine.

Council Member Scheid commented that Matt Hare, former Vice-Mayor, was in the audience and that this relates to a situation that he and his family have had with their neighbor's dogs. The Mayor invited Mr. Hare to make comments.

Mr. Hare commented on two incidents that involved his children being attacked by the neighbor's boxers on the neighbor's property. The Police came, but there was nothing they could enforce under the current Town Code. After another neighbor was attacked twice by the same dogs and a Police report was filed, the Police later came and took the male dog into custody. At that time, the Commonwealth's Attorney became involved and took them to Court to start the process of declaring the dog a dangerous dog. Mr. Hare next commented that as the Town Code currently exists, you have almost no recourse when things like this happen. He also requested that the definition of "trespass" be added to the definitions Section.

Chief Foster commented that they have confirmed with the owner and Vinton Veterinary that both of the animals were euthanized on September 16th.

Council Member Scheid asked if the adding the definition of "trespass" as suggested by Mr. Hare would be acceptable. Chief Foster responded that he would discuss it with the Town Attorney. After further discussion regarding the requirements to deem a dog dangerous through

the Courts, the Mayor commented that the Ordinance would be brought back to Council for consideration at their next meeting.

The next item on the agenda was a briefing on the Notice of Invitation for Bids (IFB) for the construction of the Glade Creek Greenway Phase 2A. Anita McMillan commented that there were 12 constructions companies that attended the pre-bid meeting and eight bids were received by the deadline of today. The lowest bid was $73,000 more than the budget and the second lowest was $175,000 more than the budget. The bids have to be sent to VDOT in Salem for their review and to the Federal Highway Administration to make sure they meet all of the requirements.

Pete Peters commented that Ms. McMillan worked with VDOT to do estimates through their system. Five of the bids were very close together and it appears we received fair bids, but they were elevated because construction work is plentiful in the Valley and therefore costs have gone up.

In response to a question, Mr. McMillan commented that the estimate for the construction is $396,000. The lowest bid was $468,936 and the second lowest was $545,475. She advised Council that she would keep them posted.

The next item on the agenda was a briefing on a proposed Ordinance to amend Chapter 82, Streets, Sidewalks and Other Public Places, Article III, Public Rights-of-Way Use Fee, Sections 82-61 -82-63 and Chapter 86, Taxation, Article IV, Tax on Purchases of Utility Service, Division 2, Telephone of the Vinton Town Code.

Mike Lockaby, Town Attorney, first commented that the current Town Code provides that all companies that have wires on poles have to pay a per foot fee. Since these fees varied greatly across the Commonwealth in the late 1990's the State decided to standardize these fees and adopted the VDOT Rights-of-Way Use Fee, which is a flat per foot use fee based upon the average cost of maintaining roads throughout the State. Council adopted an Ordinance in 2001 that implemented this new fee, but it has not been updated since then.

The Town Attorney next commented that he recommends deleting two different taxes that the Town has not been charging and has not had the authority to do so since July 1, 2007. At that time, the General Assembly took this away from the localities and made it a flat five percent tax on every locality in the State which is collected at the State level and remitted back to the localities. The proposed Ordinance will also remove the E-911 tax that was moved to a State-level administered tax in 2001, but was still in the Town Code.

The next item on the agenda was a briefing on the proposed amendment to the Vinton Zoning Ordinance to repeal and adopt the revised Wireless Communication Facilities and Infrastructure Ordinance. Anita McMillan first commented that we have to amend our telecommunications ordinance that was adopted in 1998 in order to meet the State and the Federal Communications Commission (FCC) regulations. Our current Zoning Ordinance does not have any provisions for small cell facilities, but requires a Special Use Permit (SUP) for an antenna in Residential and General Business Districts. We also require a SUP for a tower and mono-pole in the General Business Industrial District. Under the current FCC and State requirements, we have to allow small cell by right in any of the districts, but we can still require a SUP permit for tower and mono-pole, which can be up to 199 feet. We are basically repealing the existing telecommunications ordinance and adopting a new telecommunications facilities section that will have development standards for small wireless facilities, base stations, towers and mono-poles. The Planning Commission had a Work Section on November 14th to review the proposed Ordinance and a Joint Public Hearing with Council has been advertised for December 17, 2019

Council Member Scheid commented that the development standards are not rigorous enough. Council discussed wanting to incentivize and encourage the small cell facilities to be placed in particular areas and not in others and it should be in the Ordinance. The Town Attorney commented that language would be built into the franchise and a master lease agreement, which is an easier path to follow rather than putting it into the Zoning Ordinance.

After further discussion regarding Council's preferences as to where they would like the facilities to go, the Town Attorney commented that he was focusing more of his attention on the franchise document and the master lease agreement because they will last for a long time. An Ordinance can be amended at any time. He would be glad to review the provisions of those documents in Closed Session at the next meeting with Council if it will help them understand what he and the Town Manager are going to be talking about with they meet with the Cox representatives.

Council Member Scheid next commented that there is no provision in the Ordinance about having to take the equipment down at some point when it is obsolete and requested that language be added requiring a company that goes out of business to take down their equipment in a certain amount of time. Council Member Scheid also asked if we could require the small cell facilities to follow suit if the Town could ever afford underground wiring, the Town Attorney responded no and there is language in the FCC order that says undergrounding projects in some circumstances are illegal. Virginia Beach was able to include that language in their Ordinance because of the millions of dollars they had invested into undergrounding in the last five years. The Town Attorney further commented that language regarding the removal of abandoned facilities was a good idea and he would add that to the proposed Ordinance. As far as the undergrounding language, that is included in the franchise agreement and he would push it as far as the law would let us and see if we get pushback from Cox.

With regard to any facilities being mounted on a pole along a sidewalk and meeting ADA requirements, Ms. McMillan commented that there is a set-back requirement for the facilities of at least 36 inches clearance by ADA requirements. The Town Attorney commented that any plan would be submitted to the Planning Department for the purposes of zoning compliance and would also be reviewed by Public Works to make sure it was not going to interfere with pedestrian or vehicular traffic. If it was, that would be a reason to disapprove the application.

The Mayor asked if we could force co-location of equipment. The Town Attorney responded that we probably cannot force it, but a company should look at how much it cost to co-locate versus how much it costs to build something new.

The next item on the agenda was a briefing on a request of Bank of Botetourt for a Drive-Up/Drive-Thru Facility in Conjunction with their Proposed Bank Building, located at 410 S. Pollard Street, Tax Map Number 060.16-09-01.00, Zoned CB Central Business District. Nathan McClung first commented that banks and other financial services are permitted by right in the Central Business District. However, any kind of drive-thru facility in conjunction with an already permitted use requires a Special Use Permit (SUP). The Planning Commission was briefed on the request at their November 14th Work Session.

The bank intends to demolish the current structure on the property, purchase .059 acres on the eastern portion of the property and construct a new building to better accommodate the drive-thru facility. The new structure will be approximately 2,460 square feet and will include an ATM and remote teller. There will also be five standard parking spaces along South Pollard like those in front of the Library. Currently, the plan would be for the ATM facilities to be accessed by utilizing the 10-foot alley one way off of South Pollard. We have requested that if they do choose to use the public alley that they would improve it substantially to account for heavy traffic. Also, one handicapped parking space will be accessed on East Cleveland which is shown on the handout. There is a letter of mutual understanding between the Bank and the Town with regard to the request for the alleyway improvements and submittal of a site plan. Staff does find this request to be compatible with the surrounding area and consistent with the zoning ordinance. We have requested that the Planning Commission and Council be given an opportunity to review the proposed site plan and propose such conditions as reasonably necessary to ensure that the use will remain compatible when completed.

There were comments and discussion regarding

the stacking space on the alley from South Pollard to the drive-thru and the requested upgrades. Pete Peters commented that the Town entered into a Memorandum of Understanding with the Bank that we have mutual assurances that they will provide the upgrades to current VDOT standards. It will remain a public right-of-way and the Town will maintain it moving forward.

The next item on the agenda was to consider adoption of a Resolution authorizing the Town Manager to execute a Cooperative Agreement to accept a $300,000 Community-wide Brownfields Assessment Grant from the U.S. Environmental Protection Agency (EPA). Pete Peters commented that Council was briefed at the November 19th Council meeting on the award of this Grant, which is a 100% percent reimbursable grant with no local match. Subject to Council's approval, staff anticipates work on the program to begin in January of 2020 with the establishment of a steering committee to develop a priority list of properties that we will be undertaking through the three-year grant period.

Council Member Scheid made a motion to adopt the Resolution as presented; the motion was seconded by Council Member McCarty and carried by the following roll call vote, with all members voting: Vote 5-0; Yeas (5) – McCarty, Scheid, Stovall, Liles, Grose; Nays (0) – None.

Adopted Resolution No. 2333 authorizing the Town Manager to execute a Cooperative Agreement to accept a $300,000 Community-wide Brownfields Assessment Grant from the U.S. Environmental Protection Agency (EPA)

The next item on the agenda was to consider adoption of a Resolution authorizing the Town Manager to execute a Contract with Draper Aden and Associates for Environmental Consulting to assist with administration of the $300,000 Community-wide Brownfields Assessment Grant from the U.S. Environmental Protection Agency (EPA). Pete Peters commented that Council was briefed on this Contract at their November 19th meeting and it was reviewed by the Finance Committee on November 12th and the Committee recommended approval by Council.

Council Member McCarty made a motion to adopt the Resolution as presented; the motion was seconded by Vice Mayor Liles and carried by the following roll call vote, with all members voting: Vote 5-0; Yeas (5) – McCarty, Scheid, Stovall, Liles, Grose; Nays (0) – None.

Adopted Resolution No. 2334 authorizing the Town Manager to execute a Contract with Draper Aden and Associates for Environmental Consulting to assist with administration of the $300,000 Community-wide Brownfields Assessment Grant from the U.S. Environmental Protection Agency (EPA

The Mayor commented that he would like to see a comparison of hiring a consultant to do this type of work versus having a highly technical person on staff. Mr. Peters commented that these funds could not be used for salary and is designed for the purpose of hiring a consultant in this case.

The Town Manager commented that we received notice from FEMA, Regional III, that the Town's hazard mitigation plan had been approved.

Under reports from Council Committees, Pete Peters first commented that the Economic Development Committee met on November 26, 2019. With regard to Gish's Mill, the Committee was updated on the aspects of a redevelopment proposal that we anticipate receiving by the December 13th deadline. Staff presented aspects of this redevelopment proposal to the Roanoke County Building Official, Fire Marshal and Engineer and they all felt that it was constructible. Mr. Peters next commented that everyone feels that it is imperative that we receive the State and National Historic Designations. The Town has hired a consultant to assist us in preparing the preliminary information form that is required to DHR, which is the same process that the Town and the County pursued for Roland E. Cook and Billy Byrd. Designating the Mill as a historic structure would pretty much waive the investment restrictions that a flood-way project would hold in this case. Once the proposal is received, an update will be made to all of Council.

With regard to Vinyard Station, all of the contracts have been executed and we are waiting on an official closing date with the developer and the Vinyard family and anticipate that taking place in late December or early January 2020. A new roof will be going on the structure within the next two weeks.

The Committee was also shown a video that RVTV has produced on the joint economic tour with the Roanoke County Board of Supervisors, which will be shown tomorrow as part of the State of the Town address and then go on regular circulation for social media and RVTV.

Joey Hiner reported that the Public Works Committee met on November 26, 2019 and further discussed the proposed Right-of-Way Ordinance, which will be brought to Council for a briefing after the first of the year. The Committee also discussed the upcoming paving schedule and Mr. Hiner provided Council with a priority list of the upcoming streets for the next two to three phases of paving to be done in the Spring or early Summer and followed by a late Summer or Fall paving.

In response to a question, Mr. Hiner commented that with the funds left in the FY2019-2020 budget, they would probably get the first four on the list and the next four or five in the next fiscal year. Some smaller streets on the list may be paved if they are needed to use up the funds in the budget. For example, Polk Avenue is a very short street that they might pave if they have $15-20,000 left.

The next item on the agenda was appointments to Boards/Commissions/ Committees. Council Member Scheid made a motion to re-appoint Joey Hiner to the Roanoke Valley Resource Authority for a new four-year term beginning January 1, 2020 and ending December 31, 2023; the motion was seconded by Vice Mayor Liles and carried by the following roll call vote, with all members voting: Vote 5-0; Yeas (5) – McCarty, Scheid, Stovall, Liles, Grose; Nays (0) – None.

Re-appointed Joey Hiner to the Roanoke Valley Resource Authority for a new four-year term beginning January 1, 2020 and ending December 31, 2023

Council Member Stovall asked if Mr. Patterson was still on the Planning Commission and Vice Mayor Liles responded that he resigned two weeks ago because he is moving to Maryland. The Town Clerk commented that an advertisement ran in the Vinton Messenger and information is on the website and social media about this vacancy and one for an alternate member on the BZA.

The next item on the agenda was a request to convene in Request to Convene in Closed Meeting, Pursuant Section 2.2-3711 (A)(3) of the Code of Virginia, 1950, as amended, for the purpose or consideration of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the Town,

specifically relating to a sanitary sewer easement on the Methodist Church property and § 2.2-3711 (A)(7) for consultation with legal counsel and briefings by staff members pertaining to actual litigation, where such consultation or briefing in open meeting would adversely affect the Town's negotiating or litigating posture.

Vice Mayor Liles made a motion to convene in Closed Session; the motion was seconded by Council Member Stovall and carried by the following vote, with all members voting: Vote 5-0; Yeas (5) – McCarty, Scheid, Stovall, Liles, Grose; Nays (0) – None. Council went into Closed Session at 9:52 p.m.

At 11:07 p.m., the regular meeting reconvened and the Certification that the Closed Meeting was held in accordance with State Code requirements was approved on motion by Council Member Stovall; seconded by Vice Mayor Liles and carried by the following roll call vote, with all members voting: Vote 5-0; Yeas (5) – McCarty, Scheid, Stovall, Liles, Grose; Nays (0) – None.

Certification of Closed Meeting

Council Member McCarty made a motion to adjourn the meeting; the motion was seconded by Vice Mayor Liles and carried by the following vote, with all members voting: Vote 5-0; Yeas (5) – McCarty, Scheid, Stovall, Liles, Grose; Nays (0) – None. The meeting was adjourned at 11:08 p.m.

Meeting adjourned

APPROVED:

Bradley E. Grose

Bradley E. Grose, Mayor

ATTEST:

Susan N. Johnson

Susan N. Johnson, CMC, Town Clerk