



Minutes of the Roanoke Rapids City Council

A regular meeting of the City Council of the City of Roanoke Rapids was held on **Wednesday, November 7, 2018 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
Chuck Hasty, Police Chief
Kelly Lasky, Planning & Development Director
John Simeon, Parks & Recreation Director
Larry Chalker, Public Works Director
Stacy Coggins, Fire Chief
Christina Caudle, Main Street Director

Absent: Councilwoman Carol H. Cowen

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, motion was made by Mayor Pro Tem Ferebee, seconded by Councilman Bobbitt and unanimously carried to adopt the business agenda for November 7, 2018 as presented.

Special Recognitions

Police Department – Retirement of Captain Andy Bryant

Chief Hasty announced Captain Andy Bryant will retire on December 1, 2018 after serving the City of Roanoke Rapids and its citizens for 27 years. His service is greatly appreciated and will be remembered. He requested Council consider a motion to award Captain Bryant's badge and side arm to him in accordance with General Statute 20-187.2(a).

Motion was made by Councilman Smith, seconded by Councilman Bobbitt and unanimously carried to award Captain Andy Bryant his service side arm and badge for and in consideration of the sum of \$1.00 received from him and upon his securing a permit as required by NCGS 14-402.

Former Police Chief and Mayor, Drewery Beale, stated he and Captain Bryant worked together in the past and thanked Council for allowing him to make this presentation. He first made a comment about the night of the recent hurricane where he was listening to the scanner. He stated if everyone in the city could have heard what he heard that night, they would walk up to each City employee and thank them for the work they did. If a tree would fall, Public Works was right at it to cut it down; if the Fire Department was needed, a truck was rolling out and the same for the Police Department. It was just a coordinated effort and it was a pleasure to him to hear that. Sometimes as citizens, we forget what we have and complain about it and we have a lot. That night was just heartwarming to see that much cooperation going on. We should thank our City employees because we have a good city and top notch employees. Captain Bryant was a good example. He has dedicated all his life to the Police Department and now is going to retire and take it easy for a little while. He then presented Captain Bryant his service weapon.

Captain Bryant thanked Chief Beale for coming to his driveway when he was five or six years old and letting him ride in the police car that first time. It set the steps for what is ending tonight after 27 years. He said he did not want it to end, he still wants to be a police officer, he stills wants to help people, but he has to go. It has been the hardest decision he has had to make in his life. He wished he could go back 20 years and start it all over again. He said he would be forever grateful to Chief Beale, Chief Bobbitt, Chief Lawson and any other chief he worked for including Chief Hasty. He thanked them for giving him the opportunity to do his job and to receive the education from top notch places all across the state.

Sons of the American Revolution Presentation

Ken Wilson with the Halifax Resolves Chapter Sons of the American Revolution stated it was his pleasure to recognize a member of the City's police force, Captain Andy Bryant. He said Captain Bryant served the citizens for 27 years and worked his way through the ranks from Patrolman to Captain. Throughout his career he served with distinction, pride and selflessness. Captain Bryant mentored numerous officers in the department over his career helping them gain the training and the knowledge they needed to advance. According to Chief Hasty, the department will be losing a jack of all trades upon his retirement. He has worked on many projects for the department including radios, FTOs, Citizens on Patrol and training coordinator, taking on whatever tasks were passed down. He could be found anytime, day or night, at the department doing something for someone else or for the department. His vast knowledge of just about everything will make the task of filling his shoes extremely difficult. On behalf of the National Society Sons of the American Revolution and the Halifax Resolves Chapter of the North Carolina Society, Captain Andy Bryant, Jr. is hereby awarded the SAR Law Enforcement Commendation Medal.

Mayor Doughtie added that many times as Mayor he had stopped by Captain Bryant's office and they would just chat about things. He has given him some insight or ideas about different ways to can look at things. He would leave with a better knowledge on whatever topic it was they had been talking about. It would not necessarily be about policing. What he saw in him, what he sees in him and what he still is, although he says it must end, he did not think it was ending, he is just moving on to another stage in his life. Captain Bryant has something to offer and the will to pass things on to the next generation to help it be less demanding for them. He thanked Captain Bryant for his service and friendship and looks forward to seeing him enjoy his retirement.

Approval of Council Minutes

Motion was made by Councilwoman Scarbrough, seconded by Councilman Bobbitt and unanimously carried to approve the October 16, 2018 Regular Meeting minutes as drafted.

Public Hearing

Nuisance and Vicious Dog Appeal Hearing

Mayor Doughtie called upon Chief Hasty to help guide City Council through the appeal hearing.

Chief Hasty stated before getting started anyone wanting to speak needed to see the City Clerk to be sworn in if they had not already done so.

Chief Hasty reported an incident occurred on October 10, 2018 in which Mr. Ron Haines' two dogs got loose and attacked Ms. Becky Curry and her dog at 105 Gowen Drive. After an investigation with all involved, bite victim and witnesses, Police Chief Hasty has deemed the two pit bulls from 111 Gowen Drive as a Nuisance Animal (Statute 91.03) and a Vicious Animal (Statute 91.05). As allowed in Chapter 91 of the City Ordinance, Mr. Haines has filed an appeal for the decision to deem his dogs as Nuisance and Vicious Animals. City Council had in their packets the incident report, pictures, statutes and city ordinance. He read the following incident report:

On October 10, 2018 around 11:36 a.m., I (Pete Wilson) responded to a call at 105 Gowen Drive in reference to an animal attack. On my arrival, Chief Hasty, Officer Hunsucker, Officer Council and Officer Marshall were already on scene. I went to the bite victim, Mrs. Becky Curry, to get a statement and to view the injuries sustained during the attack. The victim had several injuries to both of her arms and complained of pain on her right leg. On her right arm, she had several puncture wounds on her forearm and her wrist. On her left arm, she had several more puncture wounds around the bicep and forearm area. The victim stated that she been attacked by two pit bulls and Chief Hasty said that the two dogs had been taken to the owners, Ron Haines, residence located at 111 Gowen Drive. The dogs were placed in the house by Mr. Haines.

The victim stated that the two pit bulls, belonging to Mr. Haines, had come onto her property and were running up and down the chain link fence area attempting to get to the victim's dog who was located inside her fenced in area. The victim's dog, a white dog with black spots, then jumped the fence (which is well within her property) and was attacked by the two pit bulls. The victim then came into the backyard where her dog was being attacked and began screaming and yelling "help me" and "no." She was attempting to separate the dogs and that is when she was attacked by the two pit bulls. Mr. Jones saw the incident unfolding and came outside with a golf club. He struck the tan dog with his golf club and the black pit bull ran back towards Mr. Haines' residence. After striking the tan pit bull, it also ran back to its property. The victim then told me that she was taking her dog to the vet (unknown which vet at the time) and then would be going to the hospital (Halifax Regional Medical Center). I obtained photographs of the victim's injuries and the victim's daughter took photographs of their dog and turned them over to me.

Looking at the victim's dog, it suffered major injuries. The dog had puncture wounds on the top of its head, back of the right back leg, inside the thigh area of the rear right leg, and several more puncture wounds between the rear two back legs (near the genital area). After speaking with the victim, I went to speak with Mr. Jones and his wife (Loretta Jones) who reside at 119 Gowen Drive. They said that they were inside of their residence and heard the victim screaming. Looking out the window, they saw the two pit bulls attacking the other dog. Mr. Jones said that he grabbed his golf club and began walking to the area where the pit bulls were attacking the victim's dog. He said that the victim then tried to protect her dog and that is when the two pit bulls began biting her. He ran over to the two pit

bulls and struck the tan dog on the top of the head. He said he also swung at the black pit bull but missed. He said that both pit bulls then ran back to their residence.

I was then approached by Shawndaln Nicole Davis who resides at 129 Gowen Drive. She said that she heard someone yelling outside and looked out of her window. She said that she saw the victim yelling and screaming and trying to pull her dog away from the two attacking dogs. She said that she saw the victim and her dog between the tree and the victim's residence.

I then went to 111 Gowen Drive to speak with the owner of the two pit bulls, Mr. Haines. Mr. Haines told me that he went inside of this house after working on the vehicle and brought his dogs inside with him. He said that he forgot to secure the dogs due to having grease on his hands and the dogs pushed the front door open. He said they had only gotten loose for a moment. Mr. Haines said that the incident took place around the garden area on his property.

After speaking with the victim, the witnesses and the owner of the two pit bulls, I had each of them write a written statement.

After having Mr. Haines tell me what happened and write a written statement, I had him place both pit bulls in the Animal Control truck. At that point in time, I wrote Mr. Ron Haines a City Ordinance Citation for Vicious Animal (91.05). This was due to the three witness statements and the victim's statement that the incident had occurred on the victim's property. I then transported the dogs to the Roanoke Rapids Police Department in order to make copies of the rabies vaccinations for the two pit bulls, which the Halifax County Animal Shelter needs. I then transported them to the Halifax County Animal Shelter and they were turned over to J. Pilgreen who is the Halifax County Control Officer. Mr. Haines followed me to the Police Department and to the Shelter.

At the Halifax County Animal Shelter, Mr. Haines wanted to take his animals out of the City Animal Control truck. Mr. Pilgreen told him that he was not allowed to do that due to their policy and procedures and Mr. Haines began yelling at him. Mr. Pilgreen said that he would call the Halifax County Sheriff's Office if he did not remove himself from the property. Mr. Haines then calmed down and then Mr. Pilgreen allowed him to take the dogs out of the truck and place them into the pens inside the building. While getting the tan pit bull out of the Animal Control truck, he noticed a gash on the top of its head and accused me of injuring his dog during the transport. I told him that he, Mr. Haines, had placed both animals in the truck and removed each of them. There are no loose objects in the truck to cause any injuries to the animals. Paperwork was then turned over and I left the shelter. Mr. Haines stayed at the shelter.

Chief Hasty said that was the incident report as it was filed by Animal Control Officer, Pete Wilson who is in attendance tonight along with Mr. and Mrs. Jones, Ms. Curry and Mr. and Mrs. Haines to offer evidence. He asked Mayor Doughtie to open the public hearing to receive evidence from those involved.

Mayor Doughtie declared the public hearing open.

Ron Haines (Appellant)

He called upon the appellant, Ron Haines to come forward.

Public Works Director Chalker interrupted to say he did not sign up to speak but he was involved in the incident and provided the Police Department a statement so if he needed to speak he would sign up.

Mr. Ron Haines, duly sworn by the City Clerk, stated first of all he would like to ask for a continuance because tonight was the first time he had heard the incident report. It did not give me enough time to prepare. He did not know the dog had jumped the fence. He knew the dog got loose, but did not know the dog had jumped the fence like that. That was our sixth amendment right to face our accusers and all the evidence before them. He wrote the Chief and he told him to write the City Manager and the City Manager gave him the cover sheet and that was all he got. He asked City Council to give him to the next hearing to prepare for his case. These dogs were his family, they sleep with him and eat with him. He already has a strong case because there was a lot of stuff said that was not true. He was glad the Animal Control Officer was here and several other people that were here. Just for the record, he did take his dogs out of the trucks and kennel them himself. He asked for a continuance because he would like a chance to review the incident report and speak to an attorney and get some advice and proceed with this. In criminal proceedings, if he does not pay that ticket, they will summon him and what is that going to be, criminal. He went to the clerk and tried to subpoena it, she said it could not be done until it was in court and told him to go see the magistrate. He went and saw the magistrate, the magistrate told him to just go ask for it so he did and they would not give it to him; they just gave him the cover sheet. He asked again if they would continue this until the next meeting to give him and his family a chance to prepare for this. He stated there has been no incidents with the dogs, none whatsoever; nobody has seen them and everything is secured until the issue is resolved. He asked if that was possible.

Mayor Doughtie said the way the hearing is designed to be conducted, if that is what he wants to say, they will need to move on.

Mr. Haines replied if they would need to move on, he had a lot more to say. He was asking for a chance to take the incident report and talk to an attorney and review some laws. They were talking about taking his family, he loves his dogs and doesn't think that is right. Everybody is entitled to face their accusers and why could he not get a copy of the incident report.

Attorney Chichester said he noticed in the agenda package that Mr. Haines filed his appeal with the City about three weeks ago, October 16, 2018. We are here this evening, notice has been given for the hearing this evening during the Council meeting and they were already into the hearing. He said with all due respect to Mr. Haines, it was a little too late to do that. He has not heard that he was denied a copy of the incident report and he has not said he requested it and it was not given to him. Once a hearing has started and it is into the evidentiary part of the hearing, it was beyond the point to where the hearing could be continued.

Mr. Haines stated he wrote a formal letter to the City Manager requesting a full copy of everything in the incident report and he sent him the cover sheet and that was it.

Chief Hasty interrupted to say they had two appointments with Mr. Haines and he did not show up for either one of them to come talk with him. Mr. Haines stated at that point they had told him to go to the City Manager because the Police Department had handed it over to the town. Chief Hasty said he could have gotten the full report if he had shown up at those two meetings.

Mayor Doughtie stated it would be best to continue on with the hearing. He said this was his opportunity to speak and asked if he would like to say some additional things.

Mr. Haines said he has trained dogs formally, legally and is bonded. He hated what happened, but Ms. Becky did not get attacked by his dogs. Anytime legally you step on a dog's tail, and for the record the black dog is a lab, not a pit bull. He stated anytime you jump in between two or three dogs fighting, that is legally in the state of North Carolina, provoking a dog bite. Everybody knows to never put yourself in harm's way, even if it is Chihuahuas, to break up a dog fight. And you certainly do not lay on the ground on your belly between two pit bulls and another dog fighting. How did they know it was his dog that bit her because it was three dogs fighting? If a pit bull would have attacked her, personally, it would have been a lot more than a couple of little scratches. Two days after the incident, they have the video on their phone, she did not have bandages on her arm where she said she was mauled. This was ten days later (he showed photo) of what her dog did to his dog; it is about a $\frac{3}{4}$ inch hole in his dog's head. So what happened wasn't his dog attacking her, she laid down between three dogs fighting. He said when that dog got to her, it didn't hurt her like that, and if it did, it would have been a lot worse. He said they deemed the dog a nuisance and dangerous, but by law they have to deem the dog a nuisance and then write the ticket. He said he was also appealing the ticket; he was written a ticket five minutes after it happened before Ms. Becky's statement was ever given

formally. That is not right. In North Carolina, it says one dog bite does not legally cause or deem a dog dangerous or a nuisance. But there are some issues that people are not looking at, he believes it is favoritism. He said she has a four foot fence and her pit bull jumped over the fence and came in his yard. His watermelons were trampled, that was his yard line. Then she came out and jumped in it. He said this was a matter of human error. When he came in, he did not secure the door good and his dogs went out. She also allowed her dog to be out there unattended obviously, to jump that fence. Since this incident she has done it and he has it on video. He called and reported it but she did not get a ticket. He said her dog a week and a half ago ran out the front door and chased a kid down the road and he has that on video. He called and reported it and asked if she got a ticket. He got a \$1,000 ticket so why didn't she get a ticket. He has a six foot fence. He said to ask them since this incident and he got his dogs back, if they had even seen his dogs. What about that child or Chihuahua dog that dog will kill if it jumps the fence again. The law in this town says you have to have a six foot fence for a dog to be unattended, how are they getting away with a four foot fence and why didn't she get a ticket like he did for her dog getting loose. They were saying his dogs were aggressive, her dog jumped the fence and came over. Both instances are human error, dogs are just dogs. Both of these dogs were rescue dogs. When he got them, they did have issues. He's had Remo for two years and he just came from the pound and he was wide open. He has a video on his phone that he took right before he came here. He took his dogs down around people, dropped the leashes and let them out of the truck. His dogs ran up around people, wagging their tails and people petting them. He asked was he allowed to show them the video because he would really like to since they were deeming his dogs vicious and can't control his dogs. He can control his dogs on command, if he say "egh", both of his dogs drop down. No, four months ago they wouldn't but today they will and he has the video. He went to two different places to demonstrate that he can control his dogs. They are not vicious, it was a dog fight, his dogs did not attack her; she jumped in between three dogs fighting and got some nicks. That right there is an attack; that's a $\frac{3}{4}$ inch hole (referring to dogs head injury) ten days after the accident. That is a dog attack. She did not have any of that. He asked if she received any surgery. She was saying his two dogs attacked her while she was laying on the ground, on her belly. What happened was she jumped in between a dog fight. His female and male will be playing, the female is the alpha and she will check that male. When she does, she will growl and he will grab her tail and she'll turn around but when she sees him she stops. The same incident happened here, the dogs were fighting and she was in there trying to protect her dog. It was not a smart ideas to lay on her belly between two pit bulls and a lab. None of her bites are attack bites, they are just because of her being in the way. She cannot even say that.

Mayor Doughtie interrupted and stated they were hearing some of the same information again that he had already stated to them. He said they understand what he was saying and asked if he had anything else.

Mr. Haines said he would like Council to see the video. Mayor Doughtie stated they did not need to see the video. Mr. Haines asked is this because he works for the town and she works for the Police Department. Mayor Doughtie asked if he was finished giving them facts. Mr. Haines said they were talking about killing his dogs or taking his dogs, but won't hear his evidence. Chief Hasty interjected that nobody was going to take his dogs. Mr. Haines said a week and a half ago her dog chased a kid down the road and he called the cops and she hasn't gotten a ticket. Mayor Doughtie said they were not here to talk about somebody else tonight and he asked Mr. Haines to summarize his comments.

Mr. Haines said he couldn't if they didn't give him a chance. Go ahead and do what you want to do. He said he came up here honest, he did not come up here with any favoritism, but he came up here with facts. They won't even look at the video. He took his dog in public around all kinds of people an hour ago. He let them get five foot from him and said "egh" and they dropped to his side and told them to get in the truck. They want to deem his dogs a nuisance and dangerous; his dogs haven't chased anybody down the sidewalk, but her dog did so why didn't she get a nuisance ticket and take her dog. Mayor Doughtie stated they were just trying to get as much information as they could.

Becky Curry (Victim)

Ms. Curry, duly sworn by the City Clerk, stated Mr. Haines was right, on October 10th she was home for lunch and she let her dogs out in the fence. This was nothing uncommon, she does this. She said she was about to go back to work when she heard a commotion outside of the fence on her left hand side. She looked out and saw both Mr. Haines' dogs loose and they were at the fence. They were biting at the fence, agitating the dogs and running up and down, which agitated the dogs. It was three dogs at her house. She was trying to get out the door to get her dogs because they were agitated, but by the time she got out there, Chance, the dog that got hurt, was on the other side of the fence. She tried to get out of her fence the other two were in and ran down her fence line on her property because that's where they were. Both of Mr. Haines dogs were attacking Chance. She was screaming and hollering "help me", "no, no, no" and that type of thing. Yes, she tried to get Chance; she was not going to tell them she didn't. She was trying to get to her dog because they were getting at him. She said she did get on the ground. She did not know if

she slipped; she did not know what happened. All she knows is that she was trying to get her dog with her right hand and she was trying to get the other dog off with her other hand. She looked up and she was screaming the whole time, she saw Mr. Jones who is a neighbor diagonal to her, coming across the yard with it looked like a golf club. She said she cannot tell them what he did or what he said, she has no idea. All she remembers is the dogs were backing up and she was trying to get Chance inside her fence and inside her house. Mr. Jones kept them away from them and she got in the house and realized she was bleeding. She was trying to check Chance and she heard a knock at the door and it was Mr. Larry Chalker at the door. She told him Chance was hurt and he told her she needed to come outside. She was crying and upset and bleeding. When she was outside, the Police and EMS came and at some point the Animal Control Officer. She cannot remember how she got on the ground, but she guessed she slipped because she was trying to get her dog away from those two dogs. They were biting at him. She could not let him get hurt. She stated she would do it for a strange dog; she would have done it for his dogs if something would have been trying to attack his dogs. She would have done something; they (dogs) are family. She stated that was the bits and pieces she remembered.

James Curry (Witness & Victim's husband)

Mr. Curry, duly sworn by the City Clerk, said he could not say a lot about what happened but he did get a phone call from his wife. She was hollering and screaming, "They're killing him, they're killing him, and you've got to get home." He asked her what she was talking about. She repeated, "They're killing him, they're killing him." He said he was on his way and dropped everything. He was working at City Hall. He got in his truck and went straight to the house. When he got there Larry Chalker and Chief Hasty were on the scene, officers and animal control were there. He saw her sitting on the porch, she was hysterical, her arms were bleeding and her pants were muddy. It was bad. She kept telling him to check Chance to see if he was alright. He took Chance outside so he could see him better. He had cuts under his right front leg, the back leg was chewed up, his neck was chewed up and his groin muscle was cut. He tried to get his wife calmed down and told her Chance would be fine. At that time, Destiny, Chance's owner came to take him to the vet. EMS was there, they were trying to get her into the ambulance, but she did not want to, so he took her to the hospital to the Emergency Room. They investigated her cuts and abrasions and pains she was having. After that, they gave their statements to Animal Control.

Dawn Edinger (Witness)

Ms. Edinger, duly sworn by the City Clerk, stated she was not there at the incident,

but she did see her at City Hall later on and her arms were wrapped up. She had issues with it days later and she has gone back to doctors with those issues. Sometime after, she was over visiting Ms. Curry to see how she was doing and Mr. Haines decided to walk down the street and went in her neighbor's yard to video tape her dog who has nothing to do with this situation. Her dog was in her fenced yard and he is about a foot tall; he's a dachshund. He trespassed on the neighbor's yard. She did call the Police and asked them to tell him he was not welcome on their property or her property. She asked the neighbor to be here tonight because they did have an incident where they opened their door and his dog was in their yard. She could not get them here because they have issues. She said the Curry's had put tarps on their fence so her dogs do not see his dogs, but his dogs continuously come out to the fence and harass her dogs. This was not an isolated incident. Her arms were wrapped up because Mr. Haines stated something about she wasn't badly hurt and yes she was. She did see Ms. Curry that afternoon.

Officer Pete Wilson (Animal Control Officer)

Officer Wilson, duly sworn by the City Clerk, stated during the investigation he got reports from all the witnesses when he responded there basically stating the incident as far as the dog being off the property were close to Ms. Curry's property when the dog attack happened. He got all the statements from everybody and a statement from Mr. Haines so he could gather all the evidence. At that point in time he issued Mr. Haines a citation for his animal being vicious. Basically, if an animal is off property and attacks somebody and inflicts wounds that is considered a vicious animal at that point in time. With it being off property, that is considered a nuisance also. That was why he issued the citation for \$1,000; \$500 per dog and for a nuisance as far as the dog being off property. He added the bites were very severe and asked if Council had received the photographs. (They were included in their packets). He said the witnesses, Mr. and Mrs. Jones were in attendance tonight; Ms. Davis could not make here at this point in time. Mr. Chalker was also here with his statement.

Robert Jones (Witness)

Mr. Jones, duly sworn by the City Clerk, said on the day of the event, he was at home sitting in his recliner. His wife screamed "the dogs are fighting." It scared him because he thought she was talking about their two little dogs in the kitchen. She said no, the lady is down there screaming and the dogs are fighting. He went to the corner and got his golf club and went out the door. He had a bad foot at the time so he was hopping along to get there. When he looked out there, one dog was on the white dog on one end and the other was on the other end. The lady was on this side right at her property at the fence because everything was happening right at

her gate because she was trying to get the dog back in. He took his golf club and hit the brown dog in the back of the head and that may be where the injury occurred that Mr. Haines was talking about. He said he hit the dog in the head and he stayed there for a minute or so. He got up and went back to the front porch. The black dog was still trying to attack so he hit him twice and then he backed up and got away. She got up with her dog and pulled him into the fence and the black dog came back to the fence trying to get at the dog again so he hit at him again and he backed up. He could hear his wife telling somebody on the telephone he's trying to get my husband. He was coming at him so he kept swinging the golf club and he backed up. Then he came at him one more time and he hit at him one more time and then he got away from him and went around to the front.

Mayor Doughtie asked Attorney Chichester if it was appropriate to ask questions at this time or wait until everyone had spoken. Attorney Chichester replied it was appropriate to ask questions while the witnesses were up at the podium.

Mayor Doughtie asked Mr. Jones if he would share how he felt the incident would have proceeded had he not been there with his golf club. Mr. Jones replied he was at the doctor's office today talking to a man who raises pit bulls and he was telling him about several incidents that had happened and about this particular incident. His name was Dr. Ronald Brown and he said had he not been there to get the dogs away from the other dog, it probably would have killed the lady. He stated he did not know that to be true, he was just telling what the man said to him. He was not trying to cause any problems for this neighbor because they have talked several times and he was okay with him. He was just telling what he saw and what happened.

Larry Chalker (Witness)

Mr. Chalker, duly sworn by the City Clerk, stated he had a copy of his statement that he issued to the Police Department that he would refer to during his testimony. He said Chief Hasty was with him in his City truck on the day of the event which is equipped with a radio; they all monitor each other's frequencies. He said they were about to get out at Second Street and have lunch. A call came over the radio about this incident and they actually did not know who the victim was. All they heard were some dogs were fighting and more information came in that the dogs had the woman down on the ground. So they had already decided and Chief Hasty had told him they needed to go in route to that. They left Second Street in route to Gowen Drive, he believed it was 105 Gowen Drive. For the record, that was actually the address of one of his employees as well, James Curry, Ms. Curry's husband. But he does not know all his employee's addresses so he did not know where they

were going at the time. He felt that was factually important because there has been a mention of favoritism, but there was certainly no favoritism at that time because they did not know where they were going except they were going to Gowen Drive. When they were in route, they heard the lady was now on the ground so he had to go into a more intense drive to get them there sooner as safely as they could. When they arrived on Gowen Drive, they turned right into the circle and they actually went by Ms. Curry and got a glimpse of her in her backyard, but they did not know that was where the incident was. They saw Mr. Jones and his wife outside so that was their first stop. The second thing he remembered seeing were the two dogs at the neighbor's house on the front porch. Chief Hasty got out of the vehicle and at that time the Jones' told them it was Ms. Curry's house and even said she works for you. So he proceeded to Mr. and Ms. Curry's house and immediately went to the front door. As Ms. Curry said, he knocked on the door and she came to the door holding two dogs and all of the dogs and Ms. Curry were very upset; it was a mass pandemonium type situation. Ms. Curry actually crawled to the door; she was not on her feet, she was on her hands and knees. He was the first on the scene to actually see her so that was why he decided to enter this statement and give testimony tonight. When she opened the door, he did several times try to encourage her to leave the dogs in the house so he could deal with her and not the dogs. He reported she had multiple bites about each arm, right and left arms. She did have scratches and abrasions and she did have puncture wounds caused by the dog bites. He hasn't heard anyone exactly say that but that is what he saw and he thought that was important. Both arms had puncture wounds up above her elbows. She was hysterical at the time, she was hyperventilating and she was more concerned about the dogs than herself. About that time, Chief Hasty arrived alongside of him and other law enforcement units started arriving on scene; they were the first to arrive. Some short time after that, both neighbors were out in their yard and they were asking for information and if she was okay. He did not have a lot of information to give them because he did not know the extent of her wounds at that time. That was his statement and the rest of the testimony seems accurate so far from Mr. Jones and Ms. Curry.

Chief Chuck Hasty

Chief Hasty, duly sworn by the City Clerk, stated he would like to tell them what he saw when he got there. As Mr. Chalker stated, they were about to get lunch when they heard the call. They went not knowing where they were going except it was Gowen Drive. When he got out of the truck, he saw the two dogs on Mr. Haines' porch, the brown one and black one, sitting there. He started to approach them as the officers got there and they started coming towards him. Mr. Haines came out

and asked what was going on. He told them his dogs had bitten the neighbor. Mr. Haines said they were not outside and they went inside the house then. Chief Hasty told them yes they were. He then went to check on Ms. Curry after they secured the dogs where nothing else would happen to anyone else or the dogs.

Chief Hasty read the following from Chapter 91 of the City of Roanoke Rapids Code of Ordinances:

Attack By Dog. Any assault or battery by a dog upon a person or domestic animal, to include biting, felling or toppling, tearing of clothing, provoking flight to escape attack, or any other act which could reasonably cause fear, physical pain and/or injury to a person or domestic animal.

Bite By Dog. Any seizing, gripping or grasping by a dog with its jaws, no matter how slight or momentary, any part of the human anatomy or that of a domestic animal, so as to cause fear, physical injury and/or pain to such person or animal.

Dangerous Dog.

(1) A dog that:

(a) Without provocation has killed or inflicted severe injury on a person; or

(b) Is determined by the Animal Control Officer or municipal authority responsible for animal control to be potentially dangerous because the dog has engaged in one or more of the behaviors listed under the definition of **Potentially Dangerous Dog**.

Potentially Dangerous Dog. A dog that the Animal Control Officer or municipal authority responsible for animal control determines to have:

(1) Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or in any manner causing abrasions or cuts on the skin or one which habitually or repeatedly attacks humans or other animals; or

(2) Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or

(3) Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack; or

(4) Is classified as a **Pit Bull Terrier** as defined by the American Kennel Club or United Kennel Club as any American Pitt Bull, Staffordshire Bull Terrier, American Staffordshire Terrier, or Bull Terrier; and any mixed breed dog containing sufficient elements of the above breeds as identified by a veterinarian; or any dog whose owner registers, defines, admits or otherwise identifies such dog as being a **Pit Bull**; or any dog that is of a breed commonly referred to as a **Pit Bull** and commonly recognizable as such.

Public Nuisance Animal. Any animal or group of animals which:

(1) Is repeatedly found at large;

(2) Damages the property of anyone other than its owners;

(3) Is dangerous or potentially dangerous;

(4) Causes fouling of air by odors;

- (5) Causes unsanitary conditions of enclosures or surroundings;
- (6) By virtue of number or type is offensive or dangerous to the public health, safety or welfare;
- (7) Excessively barks, howls or makes disturbing noises;
- (8) Is diseased, has mange, is sick and is dangerous to public health;
- (9) Is female, in heat and is running loose.

Chief Hasty stated if the City Council upholds the dogs being deemed Nuisance and Vicious Animals, they will not be seized, it states the owner must follow certain regulations. He read the following:

§ 91.14 PRECAUTIONS AGAINST ATTACKS BY DANGEROUS OR POTENTIALLY DANGEROUS DOGS.

(A) It shall be unlawful for an owner of a dangerous or potentially dangerous dog as defined in § 91.01 and designated pursuant to this chapter to:

(1) Leave a dangerous or potentially dangerous dog unattended on the owner's real property unless the dog is confined indoors or in a secure enclosure which is locked. A *Secure Enclosure* means an enclosure that meets all of the following criteria:

- (a) A structure which is suitable to prevent the entry of young children and to prevent the dog from escaping;
- (b) A structure with secure sides and a secure top, or secure sides which are of sufficient height to prevent the dog from escaping over the sides;
- (c) A structure whose sides are constructed at the bottom so as to prevent the dog's escape by digging under the sides;
- (d) A structure which provides appropriate protection for the dog from the elements.

(2) Permit a dangerous or potentially dangerous dog to go beyond owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.

(B) If the owner of a dangerous or potentially dangerous dog transfers ownership or possession of the dog to another owner, the transferring owner shall provide written notice to:

- (1) The Chief of Police, or his designee, stating the name and address of the new owner or possessor of the dog; and
- (2) The person taking ownership or possession of the dog, specifying the dog's dangerous behavior or breed and the authority's determination of dangerous or potentially dangerous dog.

(C) Any owner of a duly declared dangerous or potentially dangerous dog shall erect a sign (two feet by two feet) which shall be clearly visible from the public right-of-way on the enclosure housing said dog which shall read:

**BEWARE!
DANGEROUS DOG**

(D) The owner of a dangerous or potentially dangerous dog is required to maintain in full force and effect a liability insurance policy of \$100,000 for personal injury or death of any person resulting from an attack by such dangerous dog or potentially dangerous dog.

(E) If the owner of a dangerous or potentially dangerous dog does not own the property where the dog is being kept, then the owner of the dangerous or potentially dangerous dog must have written permission from the property owner where the dog is to be kept before such dog may be kept on the property owner's premises. This specifically includes, but is not limited to, dogs kept on the property of friends or relatives, and dogs kept on rental property. (Ord., passed 4-13-99; Am. Ord. 2006-24, passed 6-13-06) *Penalty, see § 91.99*

Chief Hasty stated again, if the ruling is upheld by City Council, those are the things the owner must do. There is nothing that states they will seize, take or kill the dogs. He said Mr. Haines referred to the six foot fence so he referenced City Code § 91.26 Proper Care of Animals. It states the minimum pen size of 36 square feet per animal with a minimum height of six feet. It is referring to an enclosure to keep the dog in, not the fence around the yard.

Mayor Doughtie said at this time Mr. Haines has now heard comments from other individuals and asked if he would like to come forward again and speak. He asked Mr. Haines to limit his comments to a five to six minute time frame. Mr. Haines agreed.

Mr. Haines said he had a six foot fence in his backyard and Chief Hasty said the requirement is six foot. But Ms. Curry said on the record, that she was inside and her dogs were in a four foot fence and jumped over it and came onto his property. The incident actually occurred on his property line because it was in his watermelon patch. He was not trying to get her a ticket, but if the issue was about safety. For the record, her dog is also a pit bull. If she would have had a six foot fence and the dog would have been attended, the incident would not have happened. He does not mean this spitefully, but he just wanted them to hear where he was coming from. He asked why did he get a \$1,000 ticket; he loves his dogs. Why does he have to muzzle his dogs? He wished he could show the videos. Why does he have to treat his dogs like this when her dog, a pit bull, jumped the fence and got loose? He can control his dogs by command, but he was not out there. He did slip, but if he would have been out there he could have called them and they would have come right back. He said there were incidents where Ms. Curry's dog has ran across the block and come into his driveway and attacked his dog. He

broke them up and he nor either of the dogs got hurt. He did not make an issue out of it. He stated "dogs are dogs." He said if they were going to go by the letter of the law in this, don't be one sided with it. She just admitted on record that her dog was out in a four foot fence, unattended and there has been incidents before where her dog has jumped the fence and their dogs have had issues. The NC law states that if a dog is provoked, if you step on its tail or jump between a dog fight, legally that was provoking a dog bite. He stated they cannot deem his dogs dangerous and a nuisance if you jump between a dog fight. He said this state has a one bite law too. He said you cannot deem a dog a nuisance or a danger because he bit someone one time. He understands the City has its own rules. He asked the Council to see both sides of this and to be truly fair. Remo was wild but Ms. Curry will tell you that Remo and her dog used to play. Remo is not mean, he is not vicious and Ms. Curry will tell you that he has never once come to them in an aggressive situation or any neighbor. He stated he was not sure what happened with Mr. Jones because he wasn't there, he cannot say it wasn't true, but it doesn't seem like Remo because he is the lover out of them all. Maybe where he got hit with the club he did come toward him. If they were going to make him accountable by the letter of the law by this state and city, he asked them to have mercy; they have made their human errors too. He said they were still leaving the dogs unattended. He has taken videos of it and called the police and nothing was done. Her dog got loose and chased a kid down the street. He called and reported it. He stated if they were going to hold him to the letter of the law, they were supposed to hold everybody to the letter of the law. He asked Council for mercy on him and his dogs. He has secured an underground hot-wired fence; they cannot get out of his yard. They take the dogs in the yard to play. He works with his dogs, they do listen. This is human error, don't punish his dogs and family for our fault. He asked them to look at both sides of the situation before they make a decision and to be fair. He understands she got bitten and saying she is a victim, it was careless. He did not want to put his dogs in a muzzle and treat them like a prisoner; they are not like that.

Mayor Doughtie asked Council if they had any questions from anyone that had spoken.

Councilman Smith asked Chief Hasty if he had any calls over there for dogs being loose. Chief Hasty replied none that he was personally aware of, but he may need to ask Animal Control Officer Wilson. Officer Wilson replied yes, he had received numerous calls, but basically by the time he gets there the dogs are secured on the property. He has received calls after hours and on the weekends too. He clarified that he was speaking about Mr. Haines' dogs that he has received calls where they have been off the property.

Mayor Pro Tem Ferebee asked Mr. Haines if the secure electric fence was installed after the incident happened. Mr. Haines replied yes.

With no further questions, Mayor Doughtie closed the public hearing.

Chief Hasty asked City Council to consider a motion to affirm or overrule the factual findings and order of a Nuisance and Vicious Animal declaration.

Mayor Pro Tem Ferebee stated on one side he would say the rules are the rules and based on that he would deem, but on the other side it was requested earlier to gather some additional information. He would not have an issue in granting that time frame and tabling the motion if Council would agree to do that. He was not sure if any additional information needed to be brought forth here but it sounded like this person wanted to get an attorney. He said it would still have to come back to Council and he was not sure it would change their ruling according to our rules. He asked Chief Hasty to read again what they consider a vicious dog.

Attorney Chichester interrupted and stated at this point the hearing has been closed and it is incumbent upon the City Council to consider a motion to either affirm or overrule the factual findings and order of a Nuisance and Vicious Animal declaration. So actually, the hearing has been closed so he did not believe they could procedurally reopen it to receive additional evidence; although that was a motion that could be made. But at this point Council needs to consider if one Council member want to make a motion to either affirm the factual findings that the dogs are a nuisance and vicious animal or to overrule that; those were the two choices.

Mayor Doughtie called for a motion.

Mayor Pro Tem Ferebee asked to hear the vicious dog ordinance again. Chief Hasty asked if he wanted to hear the requirements or the definitions. Mayor Pro Tem Ferebee replied the definitions. Chief Hasty read the definitions of a Dangerous Dog, Potentially Dangerous Dog and Vicious Animal as written in § 91.01 Definitions of the Roanoke Rapids Code of Ordinances as follows:

Dangerous Dog.

(1) A dog that:

(a) Without provocation has killed or inflicted severe injury on a person; or

(b) Is determined by the Animal Control Officer or municipal authority responsible for animal control to be potentially dangerous because the dog has engaged in one or more of the behaviors listed under the definition of *Potentially Dangerous Dog*.

Potentially Dangerous Dog. A dog that the Animal Control Officer or municipal authority responsible for animal control determines to have:

- (1) Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or in any manner causing abrasions or cuts on the skin or one which habitually or repeatedly attacks humans or other animals; or
- (2) Killed or inflicted severe injury upon a domestic animal when not on the owner's real property; or
- (3) Approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack; or
- (4) Is classified as a *Pit Bull Terrier* as defined by the American Kennel Club or United Kennel Club as any American Pitt Bull, Staffordshire Bull Terrier, American Staffordshire Terrier, or Bull Terrier; and any mixed breed dog containing sufficient elements of the above breeds as identified by a veterinarian; or any dog whose owner registers, defines, admits or otherwise identifies such dog as being a *Pit Bull*; or any dog that is of a breed commonly referred to as a *Pit Bull* and commonly recognizable as such.

Vicious Animal. Any animal, other than a dog which is addressed by the dangerous dog ordinance, that has made an unprovoked attack on a human by biting or attempting to bite, or by chasing or by causing damage to clothing, abrasions or cuts to the skin by any means or which habitually or repeatedly attacks or chases humans or other animals.

Chief Hasty asked Mayor Pro Tem Ferebee if he needed anything further. Mayor Pro Tem Ferebee replied he fully understood that one. He said it sounded like there was a miscommunication or misunderstanding as to if Council did deem the dogs a nuisance or vicious that the City would pick them up but he read something different about that earlier. Chief Hasty said if Council decides to uphold deeming the dogs a nuisance or vicious, there are several things the dog owner has to do to their property and they cannot be unattended on the owners property unless they are indoors or a secure enclosure, which is locked. He read § 91.14 PRECAUTIONS AGAINST ATTACKS BY DANGEROUS OR POTENTIALLY DANGEROUS DOGS from the Roanoke Rapids Code of Ordinances again.

Councilwoman Scarbrough asked Animal Control Officer Wilson to elaborate on the calls he has received at this property. He replied what usually happens is he receives calls after duty because the dogs are rooming after 5:00 p.m. or 6:00 p.m. so he has told them to call 911 to get a police officer over there because he is off duty at that time. They have also received calls on the weekends that the dogs are running loose. He has also advised them to call 911 to get a police officer over there to make sure they are in compliance. She asked if he or someone else with authority has been there more than say 10 times or less than 10 times. He replied at least 10 times. He added he patrols the area often and people in the area will call him

just so they can feel comfortable to walk their dogs. He also will park his truck there to be seen to make sure the dogs are not running loose in the day time.

Mayor Pro Tem Ferebee asked for Officer Wilson to clarify the number of times to Mr. Haines property. Officer Wilson replied 8-10 times.

Mr. Haines spoke out that the black dog was wild when he first got him, but he has trained him and there hasn't been an issue for a long time.

Councilman Smith called Point of Order.

Mayor Doughtie stated they were no longer hearing comments from the audience.

Councilman Smith stated Attorney Chichester advised Council that if they wanted to ask any more questions, then they needed to open the hearing back up. A motion would be needed to do that. Attorney Chichester agreed.

Motion was made by Councilman Smith, seconded by Councilman Bobbitt and unanimously carried to affirm the factual findings and order of a Nuisance and Vicious Animal declaration.

New Business

City Tennis Courts Proposals

Parks & Recreation Director Simeon stated at the last City Council meeting they received public input regarding the City's tennis courts. At that time they requested staff obtain a proposal for renovating the four tennis courts at T.J. Davis Recreation Center. He presented the quote from Outer Banks Tennis Contractors from Enfield, NC for the courts in the amount of \$144,708 without lights; including lights would increase the price by \$75,000 bringing the total to \$219,708.

He also included in their packet a quote for the courts at Emry Park from the same company. That quote to renovate the six courts was \$225,833, not including lights; including lights it would increase the price by \$110,000 bringing the total to \$319,752. He asked if they had any questions.

Councilman Smith stated he would like to think about this; Councilman Bobbitt agreed.

City Manager's Report

City Manager Scherer reported that one of the capital items, the new sweeper arrived Monday and the department is already using it. It is small, but holds almost the same amount of debris as the one they already had; its doing a great job. All other capital items are either in or have been ordered.

- PD Vehicles – ordered
- Tasers – here
- 2 Dump trucks – ordered (should arrive in January)
- Street sweeper – here
- Asphalt/street patching truck – ordered (should arrive in January)
- Knuckle boom trailer – ordered (should arrive in February)

He said regarding the Wayfinding Signage project: now waiting on structural engineer, Jeff Robinson, to verify the correct base anchor required for sign posts to insure it can hold weight of post and sign. Signs/posts will be installed at the same time. Public Works has completed the concrete sidewalk work at Oscar's Restaurant and made it much safer. They need to do asphalt work in gutter to insure proper stormwater flow there.

On the LED Streetlight project, he and Public Works Director Chalker have a meeting with Dominion next week. LED light choices are down from 250 to only two choices: warm and cool. Dominion has agreed to replace all mercury vapor street lights for free. The sodium vapor (orange color) lights on main thoroughfares will remain until they become inoperative, then they'll replace them with LED fixtures.

He reported the house at 1000 Cedar Street has been demolished. Code Enforcement personnel are holding a hearing this week for a house in the 200 block of Washington Street to determine its status for demolition.

City Manager Scherer said the Christmas parade planning is coming along well. Kevin Hawkins is doing well physically and plans to participate in the parade.

He said the live burn training on house beside Manning School last Saturday went well. Members from other local department were present as well as our personnel. This training with other departments helps develop trust and confidence when departments work together in emergency situations.

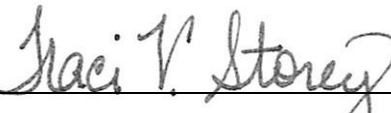
He reported the Fire Department finished its October Fire Prevention Month activities. They reached over 2,000 people with fire safety messages. Chief Coggins plans to speak at the Jo Story Senior Center on November 20th to seniors about fire safety as well.

City Manager Scherer announced Jason Patrick has been selected to be the next Fire Chief with the retirement of Chief Coggins.

He stated the Police Department made a significant drug arrest on Sunday night. Suspect had a large caliber weapon and 4 ounces of fentanyl. His bond was set for \$1,000,000 by the court.

Other Business

There being no further business, motion was made by Councilman Bobbitt, seconded by Councilman Smith and unanimously carried to adjourn. The meeting adjourned at 6:40 p.m.



Traci V. Storey, City Clerk

Approved by Council Action on: November 20, 2018