

**BURNSVILLE TOWN COUNCIL
SPECIAL MEETING
Thursday, August 2, 2011**

The Town Council, with members Mayor Danny McIntosh, Ruth Banks, Judy Buchanan, Doyce McClure, and Ron Powell present, held a special meeting on Tuesday, August 2, 2011, in the Town Hall. Also in attendance were town staff members Brian Buchanan, Leslie Crowder, Anthony Hensley, Charlie Hensley, Niles Howell, Jeanne Martin, Isaac McCurry, and George Nero, as well as visitors Ron Hancock (NC DOC) Jody Higgins, David Peterson, Wendi Reid, Armin Wessel and others. Mayor McIntosh, who presided, called the meeting to order, stating that the purpose of the meeting was to consider regular business for the month of August, 2011.

- Public Comment - Business owner Wendi Reid addressed Council about the placement of a sign on public property to advertise her business. She said her business was down 30% since a sign placed at the library's corner on the square was removed to comply with town ordinances.

- Adoption of Agenda – Judy Buchanan made a motion to adopt the agenda as presented. Ruth Banks seconded the motion, which was unanimously approved.

- Consideration of Minutes – The minutes from the following meetings were considered:
 1. Public Hearing held June 28, 2011
 2. Special meeting held June 28, 2011
 3. Emergency meeting held July 22, 2011

Judy Buchanan made a motion to approve the minutes from the aforesaid meetings. Ruth Banks seconded the motion, which was unanimously approved.

- Burnsville Fire Department – Building Plans – Charlie Hensley presented proposed plans for a new fire department facility to be located at the Forest Service building on the bypass. The property, with existing building, is assessed at approximately \$700,000, and it is expected that the asking price will be fair market value, estimated at \$500,000. Mr. Hensley anticipates that renovation of the existing building will cost approximately \$100,000, and a new building will need to be erected to house the fire trucks, which should cost an additional \$450,000. Additionally, property adjacent to the site will need to be purchased to provide space for the trucks to maneuver, and the cost of this property will need to be negotiated. Mr. Hensley said the fire department will seek grant funding, but the town will have to borrow any difference and make payments with fire tax funds.

- Re-establishment of Planning / Zoning Board of Adjustment – Council considered the re-establishment of the town's Board of Adjustment. Ron Hancock, with the Department of Commerce's Division of Community Planning (Asheville office), was available to explain services offered by his agency to assist planning boards.

There was conversation regarding the town's existing ordinances and measures that will need to be taken to establish an appropriate structure for a planning board separate from the Board of Adjustment. Attorney Todd Bailey advised that the town needed to consider adopting an ordinance establishing a Planning Board and potentially amend the zoning ordinance to establish the Town Council as the Board of Adjustment.

Ron Powell made a motion to conduct a Public Hearing for consideration of an ordinance to create a planning board at 5:30 p.m. on September 1, 2011. Ruth Banks seconded the motion, which was unanimously approved.

- Waiver of Distributions of Revenues from Burnsville ABC Board under N.C.G.S. 18B-805(e)

Attorney Todd Bailey told Council that the ABC Board's debt must be eliminated prior to distribution of any revenues. He said that nothing has been paid on the ABC's line of credit yet, and the bank is currently working on extending the credit term. He asked Council to consider waiving distributions until the lines of credit are paid in full.

Judy Buchanan made a motion for the Town of Burnsville to agree that distributions of revenues from the Burnsville ABC Board to the Town under N.C.G.S. 18B-805(e) are waived until such time as the lines of credit to the Burnsville ABC Board are paid in full. Ruth Banks seconded the motion, which was unanimously approved.

- Parking Issues – Mayor McIntosh told Council it was important for the Police Chief to know that sidewalks, crosswalks, and the corners of the town square must be kept clear of parked cars, as they are impeding traffic and pedestrians. The chief agreed to have his officers address this issue.

Regarding the parking area owned by E. B. Investments, George Nero advised Council that everyone he contacted about participation in the cost of the lease declined, and with no signage or restrictions, parking is free for public use. He said the only revenue we receive to offset the cost of our lease is from the farmers. In response to Ron Powell's questions about charges assessed to the Chamber for parking during the crafts fair, Anthony Hensley said they are paying \$200 for parking behind the Curves building, but declined the lot next to McDonald's for which they would have been charged \$800. In June, an invoice that was to be forwarded to the Chamber for costs the town incurs as a result of the crafts fair was discussed by Council. The Mayor and Councilors Judy Buchanan and Doyce McClure said they were not in favor of charging the Chamber, as it is so late in the event's planning process. Ron Powell agreed he could see the wisdom in not charging the Chamber at this point in time, but felt the town should address the organization's free use of the parking area they propose to use for the food court, while we continue to charge the farmers for the area they occupy. Anthony Hensley said the event costs his department \$4,500 to \$5,000 and asked Council to consider the issue again prior to the next crafts fair. He suggested that next year's budget could reflect these costs in a community promotions line instead of having the water/sewer department absorb the expenditures.

Ron Powell made a motion to purchase the entire property adjacent to Town Hall and enter closed session to choose an agent, establish his/her authority, and instruct the agent as to the terms. Ruth

Banks seconded the motion. The Mayor said the town didn't need the debt or the entire property. He said the town's attorney could instruct council on the condemnation process as a means to acquire what is needed. Councilor Judy Buchanan said she was in favor of providing parking for the town center, but not in favor of the town being in the business of buying buildings, taking responsibility for them, and removing them from the tax rolls. Councilor Ruth Banks said she would like to talk about the price on the whole parcel and proceed with negotiations from there.

Attorney Todd Bailey advised that if the town wanted to pursue the purchase of the property, private negotiations through an appointed agent, where a range of options were authorized, would be preferable. He said that condemnation is an option that would include the deposit of fair market value. It would be the seller's option to sue the town for more than deposited, and then it would be up to a jury to decide what was equitable. He asked about the fire department's building plans.

Voting results were as follows:

Ayes

Ron Powell
Ruth Banks

Noes

Judy Buchanan
Doyce McClure
Danny McIntosh

- Tag Agency – Councilors considered information gathered by staff concerning the operation of a tag agency. Ron Powell reminded Council that decisions were just made that would preclude the operation of a tag agency in the downtown area. Councilor Doyce McClure commented that this issue could have changed his mind as to the purchase of the property adjacent to the town hall.

- Status Updates:
 1. Small Town Main Street Advisory Board –No one was available to report on activities.
 2. Main Street Solutions Fund (NC Department of Commerce) – The town is currently awaiting a sub-recipient contract from the NuWray's attorney.
 3. NC STEP (NC Rural Center) – Ron Powell reported that the next meeting will be held August 16th, at which time projects will be submitted.
 4. Water/Sewer Asset Management Plan (NC Rural Center) – Anthony Hensley reported that Crystal McNeely with GHD will be here on August 23rd to review the information that has been collected thus far and possibly visit a few of the town's major assets. She wants us to review a draft of the asset management plan that they have been working on.
 5. Water/Sewer Capital Improvement Plan (NC Rural Center/McGill) – The contract with the Rural Center has been signed and we are waiting on a contract from McGill. A progress update is due by October 15th.

6. East Yancey Sewer District – Anthony Hensley reported that Todd Bailey delivered an agreement today for review by the town. Bids for the project will be opened by the County this Thursday.

Todd Bailey assured Council that in this contract no town taxpayer money will be used. Funds will have to come from another source. The agreement provides for the town to operate as an independent contractor, with expenses to be reimbursed. The agreement supersedes and replaces any other agreements. Councilor Ron Powell said he did not want the town to be caught with less information than the county has. He reminded Council that the town has never seen the plans. Mr. Bailey said the county has indicated in discussions that all they want us to do is operate the facility and they will fund the debt.

Ron Powell made a motion that no taxpayer money be spent on the East Yancey Sewer District. Mr. Bailey said the town could do a formal resolution, but we will still pursue with the agreement, which is being renegotiated to be an independent contract, leaving out anything that the town needs to approve. If something breaks down, the District owns it. The town will maintain and operate and get reimbursed. The town is not giving \$170,000 to the project. The county will deposit \$60,000 and afterwards the town will bill quarterly. Each month they will have to replenish the deposit to meet expenses. The only problem is the possibility that future commissioners will not recognize that there will be a deficit. It will be cheaper for the District to have the town run the operation than for them to hire staff. With regard to the town's current customers, the District will not extend service anywhere west of Highway 197, but the town will lose the schools.

George Nero said that he had looked at the new agreement and there are liability issues that will need to be changed, and we want to make sure it's clear the town won't be contributing the \$170,000.

Ron Powell said he is in favor of the East Yancey Sewer District and working with the county, but he wants everything to be straightforward. The county needs to know costs before we enter into business with them. He made a motion that the town's finance officer is not to remit any town funds to the East Yancey Water and Sewer District until further direction from the Town Council. Doyce McClure seconded the motion, which was unanimously approved. Todd Bailey said negotiations will continue.

7. U.S. 19 E Utilities Relocation (NC D.O.T.) – Anthony Hensley told Council that Bryant Industries continues construction, and next week the project should be 40-50% complete. He has asked Bryant's to suspend work next Friday and Saturday to accommodate the crafts fair.
8. I & I Remediation Projects (NC Clean Water Revolving Loan/McGill) – Anthony Hensley reported that everything has been approved and McGill is in the design process. (No change in the past month.)
9. Annexation Study (High Country Council of Governments) – Anthony Hensley said that this project is on hold waiting to see what the legislature does. Kelly Coffey is close to having the boundaries defined and has said that we could move forward soon if we approve them.

Attorney Todd Bailey presented Ordinance No. 2011.8-2-1, "Ordinance to Require Owner of Property Outside of the Corporate Limits Submit to Consideration for Annexation Prior to

Obtaining Water or Sewer Services,” which has been patterned after Spruce Pine’s ordinance. He said the ordinance does not have to be advertised, and if unanimously approved at the first meeting, it can be adopted. Ron Powell made a motion to adopt the aforesaid ordinance. Doyce McClure seconded the motion, which was unanimously approved.

- 10. Ordinance Codification (American Legal) – A recommendations report has been received from American Legal and it is still undergoing town review
- 11. Zoning Assistance (NC Department of Commerce) – The town is waiting on Betsy Kane’s report.
- 12. Broadband/Cable – No report was available.

▪ Department Updates:

Police Department - Chief Brian Buchanan reported:

- The department is about to lose an officer (Capellupo), but he wants to be kept on reserve duty. Because of the hiring freeze, board approval is necessary to replace this full time position. Councilor Judy Buchanan said she did not think Council would need to look at applications since she trusted the Chief’s judgment. Ruth Banks agreed. Judy Buchanan made a motion to allow the Chief to fill the position. Doyce McClure seconded the motion. Ron Powell said he thought Council should be looking at every employee hired. The Mayor agreed. Voting results were as follows:

Ayes

Ruth Banks
Judy Buchanan
Doyce McClure

Noes

Danny McIntosh
Ron Powell

The Chief said a long-term reserve officer has a question about his particular situation. This issue will be discussed in closed session.

- The department is getting ready for the crafts fair.

Ron Powell asked the Chief to deal with noise issues and general trouble downtown and on the square, particularly on weekends. Ruth Banks agreed that parking and noise issues have been out of control lately.

The Mayor mentioned that Roger Honeycutt would like to hold a “cruise-in” with music on the square, associated with Old Timey Days. He said no road closure will be involved, and asked if the town could sponsor the event. Judy Buchanan made a motion to sponsor the event. Ruth Banks seconded the motion, which was unanimously approved.

Public Works Department – Public Works Director Anthony Hensley reported:

- Shane Dale has completed his schooling and passed the test for land application and residuals. Randall Wilson has completed schooling and passed the test for Class A distribution.

Town Center – Facility Manager George Nero provided schedules and entertainment information for the upcoming month.

He told Council that Johnny Hensley has proposed to bring a health van to Burnsville on October 6th to serve about 200 people with a free health clinic through the Farm Bureau, who will incur all costs. He would like to park by the town center's sign on South Main so the van would be highly visible, and use Area C for bathrooms and private consults. The fee for the facility would be \$125, but they are asking the town to waive the fee since it will benefit town citizens. The Mayor stated that no fees are waived at the Town Center, but he would be willing to personally put up \$50. Ron Powell reminded Council that we have a month-to-month agreement on town center parking, which may not be available in October.

Mr. Nero told Council that several items at the town center are either broken or damaged, including a copier/fax machine, a computer monitor, and twenty 5' round tables. He said he would like to sell the tables on GovDeals and dispose of or sell the other items. Ron Powell made a motion to declare the aforesaid items surplus. Ruth Banks seconded the motion, which was unanimously approved.

- Other – Ron Powell reported that while he was in Raleigh recently, he met with Betsy Kane. He told her the town was experiencing some parking issues, and she suggested we have a parking management study done. The information we would receive from such a study would help us make decisions about the purchase of property, the installation of meters, etc. Planning money secured through the NC STEP grant could be used for this purpose. Anthony Hensley will research study groups that have been recommended by Ms. Kane.

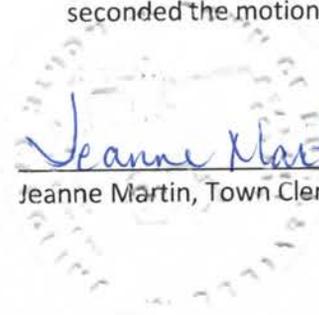
- Council Members' Reports
 - The Mayor reminded Council that several months ago he discussed planning issues with them regarding the road widening, specifically as to the intersection of 19E and Reservoir Road. He provided copies of a letter he wrote to Wanda Proffitt asking her to coordinate a meeting of appropriate individuals on this issue. A copy of the letter is attached to these minutes and by reference made a part hereof.
 - The Mayor mentioned the High Country Council of Government's annual meeting, and the town's practice of paying for elected officials and spouses to attend.
 - Ron Powell asked about EDC activities and its Director's absence from Town meetings the last few months. The Mayor said the EDC that the Director hasn't been attending town or county meetings lately. As to EDC activities, the EDC board was asked recently to allow Mrs. Proffitt to not renew a CD so it is available for the \$170,000 match for the East Yancey Sewer District. The EDC recently heard a presentation about a 4 acre solar panel project, which is supported by the agency.

Judy Buchanan made a motion to recess and reconvene to closed session to consider personnel issues. Ruth Banks seconded the motion, which was unanimously approved.

- Closed Session – After a short recess, Judy Buchanan made a motion to enter closed session to consider the qualifications, competence, performance, condition of appointment of a public officer or employee or prospective public officer or employee, pursuant to N.C.G.S. 143-318.11(a)(6). The motion was seconded by Ruth Banks and unanimously approved.

Council reconvened in open session. No action was taken as a result of the closed session.

- Next Regular Town Council Meeting - The next regular Council meeting will be held September 1, 2011. There being no further business, Judy Buchanan made a motion to adjourn. Ruth Banks seconded the motion, which was unanimously approved.



Jeanne Martin

Jeanne Martin, Town Clerk

Danny McIntosh

Danny McIntosh, Mayor