

BURNSVILLE TOWN COUNCIL
Thursday, April 5, 2012

The Town Council, with members Mayor Danny McIntosh, Ruth Banks, Judy Buchanan, Ron Powell, and Bill Wheeler present, held a regular meeting on Thursday, April 5, 2012, in the Town Hall. Also in attendance were town staff members Brian Buchanan, Leslie Crowder, Anthony Hensley, Jeanne Martin, and George Nero; and Charlene Barnett, Martin Burgess, Lisa Cruz, Missy Deyton, Jody Higgins, Ginger Johnson, and Wanda Proffitt. 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 April, 2012.

- Public Comment - Martin Burgess, U. S. Cellular representative from Knoxville, asked for his issue to be added to the agenda.

- Adoption of Agenda – Judy Buchanan made a motion to add the U. S. Cellular issue to the agenda. Ruth Banks seconded the motion, which was unanimously approved. Ruth Banks made a motion to adopt the agenda, as revised. Judy Buchanan seconded the motion, which was unanimously approved. The additional item will be considered after Item 5 (Sign on East Main Street).

- Consideration of Minutes – Ron Powell made a motion to approve minutes from the following meetings:
 1. Regular meeting held March 1, 2012
 2. Closed session held March 1, 2012

Bill Wheeler seconded the motion, which was unanimously approved.

- Benson Tyner, re: asphalt plant noise affecting town residents – Mr. Tyner was not present at the meeting to discuss this issue with Council.

- Sign on East Main Street (Miguel and Lisa Cruz) – Lisa Cruz explained that Cruz Chiropractic has been in Yancey County for thirty years and the business is currently undergoing expansion. A new logo has been developed for brochures, business cards, and other advertising. Mrs. Cruz asked Council to advise what will be necessary for approval for a new sign on the business. The sign will be under 12' and will have no white background. The mayor explained the town planning board is currently working on a new sign ordinance which should be ready for Council consideration in the near future. When complete, staff will be able to interpret and enforce without Council involvement. Meanwhile, there is a moratorium for any new sign construction.

The mayor said that after talking with Code Enforcement Officer Ronnie Tipton and Planning Board Chairman Dean Gates, it is his understanding that the Cruz sign will meet the Planning Board's sign criteria that will soon be considered by Council for adoption, and for that reason, he was willing to approve the sign.

Public Works Director Anthony Hensley agreed that the proposed sign will probably comply with the new ordinance, but with the existing moratorium on new signs, staff would have to work within that framework until the moratorium is lifted.

Ron Powell made a motion to remove the moratorium on newly constructed signs. Bill Wheeler seconded the motion, which was unanimously approved. Mrs. Cruz was asked to have Ronnie Tipton review her proposed sign and consider a permit.

- U.S. Cellular – Martin Burgess, Southeast Manager for U. S. Cellular, introduced Missy Deyton, the local U. S. Cellular franchise owner, Charlene Barnett, a representative with AGI, a sign company, and Patrick McCall, U. S. Cellular regional account executive. Mr. Burgess told Council that the local U. S. Cellular office is embarking on a move within city limits to the Banks Family Shopping Center. Mr. Burgess distributed information on signage on a two-to-one ratio and also a one-to-one ratio.

Ms. Barnett explained details relating to sign lighting.

Anthony Hensley explained that the town's current ordinance requires 2 square feet per lineal foot of wall, and the proposed sign would be non-compliant. Mr. Burgess said he understood there would be a 5 year period during which the sign could be brought into compliance. Mr. Hensley said he was unsure what the Planning Board's reaction would be if a non-compliant sign was permitted with the understanding it would be five years to compliance.

Mr. Burgess said U. S. Cellular had already spent \$1500 to \$1800 already on plans to get a sign that fits the proposed space. He said he felt the one-to-one ratio requirement cripples new business. Mr. Hensley said the criteria is being developed by the Planning Board and he's not party to their thought process; however, now that the sign moratorium has been lifted, U. S. Cellular is welcome to talk to Ronnie Tipton, the Code Enforcement Officer, who will work with them to bring the sign into compliance. If U. S. Cellular wants to pursue a sign that is non-compliant, they can apply to the Planning Board for a variance.

- Request for Tax Refund – Council was reminded that information on this matter, including an opinion from Attorney Todd Bailey, was made available at the March meeting. Both Chris McLaughlin, a law professor specializing in ad valorem tax issues at the School of Government, and Todd Bailey agree that the adjustment to the assessment does not qualify as correcting a clerical error, which is a prerequisite for refund under G.S. 105-381. The Mayor agreed with a comment made by Todd Bailey that the situation will perplex the taxpayer. He said it is certainly a complicated matter, and logically, if the mistake was made by the tax appraiser, and Mr. Butner was refunded by the county, it would seem he was due a refund by the town in accordance with the county's decision.

According to Mr. Bailey's letter, while the county's adjustment to the assessment is binding on the town for succeeding tax years, the adjustment was clearly not due to a clerical error. Ron Powell made a motion to deny the refund for the reason that the adjustment to the assessment was not due to a clerical error. Ruth Banks seconded the motion, which was unanimously approved.

▪ Status Updates:

1. Small Town Main Street Advisory Board/NC STEP (NC Rural Center) – George Nero updated Council on the group’s activities, mentioning that future meetings will be held jointly with NC STEP on the third Monday of each month at 5:30. The next meeting will be held on April 16th.
2. Main Street Solutions Fund (NC Department of Commerce) – Councilors were told that funds awarded through this grant have been relinquished. The NuWray is no longer willing to participate due, in part, to the economy and restructuring of their plans. The grant agreement between the Town of Burnsville and the State of North Carolina has been nullified.
3. Water/Sewer Asset Management Plan (NC Rural Center) – Anthony Hensley reported that GHD is scheduled to return on April 25th for a final site visit.
4. Water/Sewer Capital Improvement Plan (NC Rural Center/McGill) – Currently in discussions with McGill about proposed projects and issues the town wants implemented in the long-term plan.
5. East Yancey Sewer District – Anthony Hensley reported that good progress is being made on this project. As to the GoldenLEAF application for the water line, a presentation was made in Hickory yesterday. The final application will be reviewed before the full GoldenLEAF board in June. Ron Powell made a motion to authorize Danny McIntosh and Judy Buchanan to sign the application when it is complete. Ruth Banks seconded the motion, which was unanimously approved.
6. U.S. 19 E Utilities Relocation (NC D.O.T.) – Anthony Hensley said that the project is almost done, lacking, among other things, a tie-in at Cherry Lane.
7. I & I Remediation Projects (NC Clean Water Revolving Loan/McGill) – Anthony Hensley reported that the project is in the process of being bid out.
8. Ordinance Codification (American Legal) – No change in the past month.
9. Zoning Assistance (NC Department of Commerce) – Council members were told that most of the comments made by Betsy Kane related to the downtown area. The report is being reviewed by the Planning Board; comments and recommendations will be forwarded then to the Town Council.
10. Broadband/Cable – Wanda Proffitt reported that they are hoping to have issues resolved by the end of May.

▪ Department Updates:

Fire Department – No one was available to report.

Police Department - Chief Brian Buchanan reported:

- The department is getting prepared for a summer of activities. The first event on the square will be Cinco de Mayo.

Public Works Department

- Available for review was a proposed fee schedule for inspections. Bill Wheeler made a motion to adopt the fee schedule. Ron Powell seconded the motion, which was unanimously approved.
- Councilors were reminded that the D.O.T. has agreed to replace the curb and gutter around the square at their expense, and the sidewalk at the town's expense. It was originally anticipated that the town portion would be \$35,000 to \$40,000. Because of sharp increases in costs, it is now estimated to cost the town \$50,000. The D.O.T. has asked for a letter confirming the agreement between the town and the D.O.T. and acknowledgement of the town's \$50,000 commitment. Ron Powell made a motion to sign a commitment letter. Ruth Banks seconded the motion, which was unanimously approved.
- Public Works Director Anthony Hensley reported on an incident that occurred today involving merchandise that was being sold on the square, which is a practice that has not been allowed in the past. Usually, vendors are connected to a scheduled and permitted event. After several business owners called to complain about the activity, Code Enforcement Officer Ronnie Tipton and Police Officer Gerald Barnett investigated and discovered they were authorized, although staff members had no knowledge of authorization, which placed staff members in an awkward position. In order to give clear direction to staff, Ron Powell made a motion to place a six-month moratorium on vendors being permitted to sell on the square unless they are connected to a scheduled event, beginning Monday, April 9, 2012. Bill Wheeler seconded the motion, which was unanimously approved.

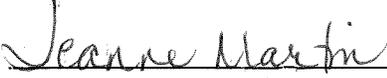
Town Center – Facility Manager George Nero provided schedules and entertainment information for the upcoming month.

▪ Council Members' Reports

- Ron Powell reported that he attended the CEC/Advantage West joint meeting.
 - Minutes from the following non-profits were available for review:
 1. High Country Council of Governments
 2. Parkway Playhouse
 3. Yancey County EDC
 - Public Art Design Board – Ron Powell reported that the welding sculpture is coming along; a new site for sculpting has been found.
 - Planning Board – Minutes from the February 20, 2012 meeting were attached.
- Other – Wanda Proffitt mentioned that a *Stars on the Square* event will be held on May 26th, and asked the town to sponsor the event jointly with the EDC and the Chamber of Commerce. Ron Powell made a motion to sponsor the event jointly with the EDC and Chamber. Bill Wheeler seconded the motion, which was unanimously approved.
- Parking on Land Owned by E. B. Investments, LLC – Ruth Banks made a motion to enter closed session pursuant to N.C.G.S. 143-318.11(a)(5), after a short recess. Ron Powell seconded the motion, which was unanimously approved.

No action was taken as a result of closed session.

- Next Regular Town Council Meeting - The next regular Council meeting will be held May 3, 2012. There being no further business, Ron Powell made a motion to adjourn. Judy Buchanan seconded the motion, which was unanimously approved.



Jeanne Martin, Town Clerk



Danny McIntosh, Mayor