

BURNSVILLE TOWN COUNCIL
Regular Meeting
Thursday, September 5, 2013

The Town Council, with members Mayor Danny McIntosh, Ruth Banks, Judy Buchanan, Ron Powell, and Bill Wheeler present, held a regular meeting on Thursday, September 5, 2013, in the Town Hall. Also in attendance were town staff members Brian Buchanan, Leslie Crowder, Anthony Hensley, Jeanne Martin and George Nero; Planning Board members Dean Gates and Harrison Tyner; and visitors Jonathan Austin, Theresa Coletta, Lucy Doll, Ron Hancock, Jody Higgins, Ginger Johnson, and Wanda Proffitt. The Mayor, who presided, called the meeting to order, stating that the purpose of the meeting was to consider regular business for the month of September, 2013.

- Public Comment - Lucy Doll, the only speaker, gave an update on plans for this year's Literary Festival.
 - Adoption of Agenda and Consent Agenda – Judy Buchanan made a motion add “Hiring Freeze” to the agenda and number the item 9(a). Ron Powell seconded the motion, which was unanimously approved. Ron Powell made a motion to adopt the agenda as revised as well as the consent agenda. Judy Buchanan seconded the motion, which was unanimously approved.
1. Consideration of Minutes:
 - a. Public Hearing held August 8, 2013
 - b. Special meeting held August 8, 2013
 - c. Closed session held August 8, 2013
 - d. Emergency meeting held August 13, 2013
 - e. Special meeting held August 16, 2013
 - f. Closed session held August 16, 2013

Council action requested: Approve aforesaid minutes

2. Status Updates:

Police Department

- a. The Police Department has had a busy month in August. Our newest patrol officer, Brandon Mitchell, has begun work after completing his notice with the Sheriff's Department. We have followed the procedures for filling the other open patrol position and have made an offer of employment to Joseph Pate and he has accepted. We are currently awaiting his certification paperwork to clear through Training and Standards and he will begin work when that certification is approved.
- b. The department was approached in the early spring by our regional licensed firearms representative about replacing the handguns that the department issues to the officers with new models. Many of the pistols that the department has issued out are more than 13 years old. Our representative will allow us to trade in our old firearms and replace them with new models for around \$130 apiece and I had approved that purchase. Our representative has also offered to take some spare long rifles that were purchased years ago

by the department and were no longer in use to offset the cost of the new pistols. These long rifles have been replaced through the years by rifles better suited for law enforcement needs and have been in storage. It is my recommendation that the Town Council sign the attached resolution declaring these rifles to be surplus property and allow us to trade them in to the federally licensed firearm dealer, which will bring the total cost of the new pistols for the department from \$2,235 to \$30.

Council action requested: Approve aforesaid *Resolution*.

Public Works

- a. East Yancey Sewer District (Yancey County)– The treatment plant is getting very close to completion. A wet start-up of the facility and training will begin the week of September 9th. The line work is still on hold but will be re-bid as soon as the required permits are issued.
- b. Micaville Water Line Extension (Golden LEAF)– The contractor is installing water line. Staff is preparing the first reimbursement request to GoldenLEAF. The town has submitted an application to ARC and the Rural Center for the remainder of the funds needed to complete the project.
- c. I & I Remediation Projects (NC Infrastructure Finance Section / McGill)– With the exception of a section of line at East Main, this project is nearing completion and a punch list is being generated for the contractor. The additional work at Longview and Shell station has been completed.
- d. Lincoln Park Pump Station (McGill) – We are waiting on the county to execute the easement for the pump station site. Once the easement is acquired we will move this project into the construction phase.

Other

- a. Small Town Main Street – The next scheduled meeting is Monday, September 16th at 5:30 p.m. The annual conference will be held in New Bern this January. We did not submit an application this year.
- b. The next quarterly meeting will be held on the third Monday in September.

Ron Powell made a motion to adopt/approve items on Consent Agenda that were identified for Council action. Ruth Banks seconded the motion, which was unanimously approved.

▪ Resolution to Amend the Water/Sewer Rate and Fee Schedule

Available for review was a revised Rate Schedule for water and sewer rates and fees. Public Works Director Anthony Hensley explained the revisions, which apply only to policy, not rates and/or fees. The policy changes stipulate that “*water leak adjustments may be granted once every 12 months,*” and “*accounts six months or more delinquent may have a one-time penalty deferral.*”

Ron Powell made a motion to adopt a Resolution revising the Rate Schedule for water and sewer rates and fees as presented by Mr. Hensley, and authorize the Mayor to execute the aforesaid Resolution. Bill Wheeler seconded the motion, which was unanimously approved.

▪ Zoning Ordinance, re: discrepancies/inadequacies in design guidelines document –

The mayor said he never had much opportunity to discuss the design guidelines document before it was adopted. He said there are several things that appear to be incomplete, and was unsure what should be done. Among his concerns he listed the amended width of the buffer zone, parking to the rear of buildings, loading zones, application of guidelines to residential districts, building height, the new commercial zone, etc. Judy Buchanan suggested that his concerns be tabled and brought by Council to the Planning Board meeting on September 16th.

The mayor made a motion to repeal the August 8th amendment to the zoning ordinance and send it back to the Planning Board for revision and completion. Voting results were:

Ayes

Danny McIntosh

Noes

Ruth Banks
Judy Buchanan
Ron Powell
Bill Wheeler

The mayor made a motion to repeal the August 8th amendment to the zoning ordinance and schedule a public hearing properly noticed as required by the zoning ordinance. Voting results were:

Ayes

Danny McIntosh
Judy Buchanan

Noes

Ruth Banks
Ron Powell
Bill Wheeler

The mayor made a motion to request the town attorney to review the requested amendments to the zoning ordinance and render an opinion as to their completeness and enforceability.

Ayes

Danny McIntosh

Noes

Ruth Banks
Judy Buchanan
Ron Powell
Bill Wheeler

The mayor made a motion to request the fire chief to study the needs and requirements to upgrade existing fire department to safely address responding to emergencies in 50' tall buildings. Ron Powell commented that the town should be worried about the fire district, since there is no guarantee how tall a building could be in the county where there is no zoning.

Planning Board member Harrison Tyner commented that the town council doesn't necessarily need to grant requests to build. A project could theoretically come before Council, at which point Council could decide whether or not the project is worthy or not to purchase a ladder truck. Alternatively, Council could ask the developer to contribute to the purchase. He said the Planning Board changed the maximum building height from 35' to 50' because it seemed appropriate to allow taller buildings. A four-story building is now permissible, which is considered a positive move by developers.

Mr. Tyner said there has never been a perfect ordinance written in the State of North Carolina; every possibility cannot be anticipated. Ordinances must be interpreted and things that need to be addressed can be, with subsequent amendments. He explained the variance process for Council. He mentioned that the City of Asheville works in the same manner, and that you can't speculate on questions that haven't materialized.

Ron Powell said the motion needs to be amended to 100' to encompass the county since we are responsible for buildings in the fire district. He commented that the Planning Board has been working on the ordinance for two years and had confidence the Fire Department was planning for any contingencies that needed to be addressed as well. Voting was as follows:

| <u>Ayes</u> | <u>Noes</u> |
|----------------|-------------|
| Ruth Banks | |
| Judy Buchanan | |
| Danny McIntosh | |
| Ron Powell | |
| Bill Wheeler | |

The mayor then made a motion to repeal the action of August 8th and hold a vote of the residents of the town along with the election to be held on November 5th.

Ron Powell said that after two newspaper articles and the public forum held at the town center, no one came to amend or change the design guidelines. The mayor did not attend the forum and did not provide changes for consideration, but it appears that town people who are interested in the zoning ordinance have had their say and are good with it.

Voting was as follows:

| <u>Ayes</u> | <u>Noes</u> |
|----------------|---------------|
| Danny McIntosh | Ruth Banks |
| | Judy Buchanan |
| | Ron Powell |
| | Bill Wheeler |

The mayor said his understanding is that the zoning ordinance applies to each and every piece of property in city limits. Therefore, each rule applies to each piece in city limits unless a zone or district is excluded by the ordinance or it says "this only applies to C-1 or whatever." It is tremendously unfair to say it does not apply to residential areas unless residential is specifically excluded. Ron Hancock, Department of Commerce, said the zoning ordinance does apply but zones have different standards. Design standards only apply to commercial areas. The mayor maintained that residents of the town should not have to be told it does not apply to them when it does.

Planning Board Chairman Dean Gates advised that there is nothing to counteract residential districts. The zoning ordinance will always be a work in progress; this is a stepping stone for a 25 year plan. Department of Commerce resources were used as a template, and Betsy Kane's input was incorporated as well. It is a great foundation of a plan to enhance Burnsville. The next step in the process is to monitor, review and revise.

Ron Hancock said there was no intent to apply these standards to single family residential districts. The zoning district is where it makes the difference. The mayor said it should be made clear at a future meeting. Ron Powell said he thought the people working on this document did a great job.

▪ Planning Board Report

1. Establishment of Design Review Board – Chairman Dean Gates told Council that the next steps to be taken include making certain that all amendments are included in the existing ordinance and consider converting the entire ordinance into digital format, which would be very practical.

An ordinance should be passed to establish the Design Review Board. It was suggested that five members be appointed, comprised of two Planning Board members, and three members-at-large. He said the Planning Board is restricted to town residents, and doesn't provide for business owners who don't live in town limits. He suggested that the three members-at-large be residents of Burnsville or Yancey County.

Ron Powell made a motion to hold a public hearing to establish a Design Review Board at 5:45 p.m. at the Town Hall on Thursday, October 3, 2013, with limits of 3 minutes per speaker and the hearing limited to 15 minutes. Bill Wheeler seconded the motion, which was unanimously approved. After adoption, Mr. Gates said he would like to get an ad in the newspaper for 1 Planning Board member to fill the vacancy created by Chuck Aldridge's resignation and 5 Design Review Board members.

2. Mr. Gates told Council that the Planning Board would like to renew the contract with the Department of Commerce for assistance from Ron Hancock.

▪ ABC Board Audit for FY 2012-2013 – The ABC Board's 2012-2013 audit was available for Council review.

▪ NC STEP Report – Councilor Ron Powell advised that the town has received \$100,000 in implementation funds on this project. Council was told that a budget amendment scheduled for discussion later in the meeting will recognize this unanticipated revenue.

▪ Council Policy re: Public Record Requests and Other Interaction with the Media – Jonathan Austin, Editor/Publisher of the Yancey County News, complained to Council about his perception that Council or its "representative" may not have followed guidelines as they relate to the release of information that is public record. Anthony Hensley responded to the complaint by reminding Mr. Austin that the town has an obligation to protect what is not public. He said town representatives have the right to allow time for legal advice before making rash decisions, and they were acting in accordance with G.S. 132-1.1.

Mr. Austin lodged another complaint about the town not purchasing legal advertising in his newspaper. He said money could be saved if the town "shopped around."

▪ Hiring Freeze – There was a discussion about the current hiring freeze and whether it should apply to existing positions that have been provided for in the budget. Council agreed that new positions

would need approval unless they were already included in the budget. For this reason, Judy Buchanan made a motion to abolish the existing hiring freeze. Ron Powell seconded the motion, which was unanimously approved.

▪ Department Updates:

Administration – No report.

Fire Department – No report.

Police Department - Chief Brian Buchanan reported that he has taken photos of potential locations for the speed signs for D.O.T. consideration.

Public Works Department – Public Works Director Anthony Hensley reported:

- The situation at the OMC pump station is back under control.
- FEMA has money for flood damage during the month of July. We have applied for \$27,000 disaster funds for storm-related issues.
- Proposed budget amendments in the amount of \$41,000 are related to equipment failures in the past few months. Council was asked if money set aside in the budget for capital improvement projects should be depleted to accommodate these unanticipated expenditures rather than amending the budget. In order to keep capital projects on target, Ron Powell made a motion to adopt Budget Amendment No. 1, which amends the budget for these expenditures using capital reserve funds, and recognizes unanticipated NC STEP revenues. Ruth Banks seconded the motion, which was unanimously approved.

Town Center – George Nero provided an update on upcoming events.

▪ Council Members' Reports

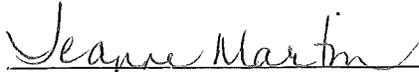
- Ron Powell reported on the success of the recent movie night on the square, mentioning it was a great event for the community.
- Bill Wheeler announced that the ABC store just had the best month since opening, \$103,000 in sales. He said the ABC audit reflects distributions of \$330.00 for law enforcement and \$462 for alcohol education.

▪ Minutes/Reports from Non-Profits –

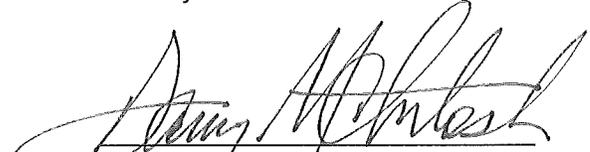
- High Country Council of Governments – minutes available
- Yancey County EDC – minutes available.
 1. Wanda Proffitt gave an update on the status of the broadband project.
 2. Available for review was revised EDC bylaws and a *Resolution and Contract* between the town and county concerning the EDC organization. Danny McIntosh commented that the bylaws are basically the same, made a motion to adopt the aforesaid *Resolution and Contract*. Judy Buchanan seconded the motion, which was unanimously approved.
 3. October 20th has been set aside as an appreciation day for Glen Raven, and Mrs. Proffitt asked Council to co-sponsor scheduled events. Ruth Banks made a motion to approve a \$200 sponsorship. Judy Buchanan seconded the motion, which was unanimously approved.
 4. November 2nd has been established as a Dark Sky evening.

- Upcoming Town Council Meeting - The next regular Town Council meeting will be held on Thursday, October 3, 2013 at 6:00 p.m.

There being no further business, Judy Buchanan made a motion to adjourn. Ruth Banks seconded the motion, which was unanimously approved.



Jeanne Martin, Town Clerk



Danny McIntosh, Mayor