

TOWN OF BURNSVILLE
Special Meeting
April 27, 2015

On April 27, 2015, the Town Council, with members Mayor Theresa Coletta, Ruth Banks, Judy Buchanan, Ron Powell, and Bill Wheeler present, held a special meeting at the Burnsville Town Center. Also in attendance were staff members Brian Buchanan, Leslie Crowder, Anthony Hensley, and Jeanne Martin; town attorney Heather Hockaday; and visitors Eddie Faw, Dean Gates, David Grindstaff, Ginger Johnson, Rachel Lewis, Woody Ryan, and others. The Mayor called the meeting to order, stating that the purpose of the meeting was to

1. Conduct a public hearing and possibly take action on an amendment to the town's zoning ordinance and to Article IX, Chapter 90, Section 90.01 of the General Code of Ordinances of the Town of Burnsville to include provisions allowing backyard chickens and establishing regulations regarding the keeping of domestic chickens within the city limits of the Town of Burnsville, NC, in districts R-10, C-2 and C-3;
2. Consider and possibly take action of a Quit Claim Deed to Dollar General for an old unopened street right-of-way called "Yancey Street" dated in 1919 and 1925 and recorded in the Yancey County Register of Deeds' Office;
3. Conduct a budget worksession; and
4. Consider any and all issues deemed appropriate.

Mayor Coletta read the rules for public hearings, and opened the hearing.

Eddie Faw asked Council which office would be responsible for compliance if a person violates the ordinance; Anthony Hensley told him that the Town Administrator will address these issues. Attorney Heather Hockaday summarized the ordinance and process.

No one else asked to be heard.

The Mayor closed the hearing, and asked for Council discussion. Ron Powell read a prepared statement that contained his comments, and asked that the statement be included in the record. Heather Hockaday corrected references to her recommendations contained in the statement, commenting that she merely stated that "if it is in the zoning ordinance, it becomes a procedural problem."

Councilor Bill Wheeler asked about the need for an animal control officer to enforce the ordinance, and he was told there will be no new hire.

Ruth Banks declined discussion.

Judy Buchanan said she recently read the legislature has a bill in the House for consideration to take animal control away locally; the state will dictate what can happen at the local level. The bill has been endorsed by both sides.

Judy Buchanan made a motion to approve an application fee of \$25, which is in line with other application fees. Ruth Banks seconded the motion. Voting results were as follows:

Ayes

Ruth Banks
Judy Buchanan
Theresa Coletta
Bill Wheeler

Noes

Ron Powell

A Plan Consistency Statement was read by Anthony Hensley. Judy Buchanan made a motion to adopt the Plan Consistency Statement. Ruth Banks seconded the motion. Voting results were as follows:

Ayes

Ruth Banks
Judy Buchanan
Theresa Coletta
Bill Wheeler

Noes

Ron Powell

Judy Buchanan moved to adopt the aforesaid ordinance. Bill Wheeler seconded the motion. Voting results were as follows:

Ayes

Ruth Banks
Judy Buchanan
Theresa Coletta
Bill Wheeler

Noes

Ron Powell

Council then considered the issue of a Quit Claim Deed to Dollar General. Heather Hockaday said that in 1925 Judge Pansy Ray recorded a subdivision on the west end of the Town of Burnsville, but there is no evidence the town ever accepted the streets. What was supposed to be Yancey Avenue in this subdivision is actually a little ditch on the property. The title insurance company has requested a Quit Claim Deed to relinquish any right the town has to such a street to clear this up.

Councilors had no questions. Bill Wheeler moved to authorize the Mayor to sign the Quit Claim Deed. Ron Powell seconded the motion, which carried.

Councilors discussed options for a meeting date for the regular Council meeting in May. It was generally agreed that the meeting should be held on Monday, May 11th at 7 p.m. at the Town Center.

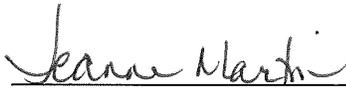
Judy Buchanan moved for a short recess. Bill Wheeler seconded the motion, which carried.

Council reconvened after the recess to begin work on the FY 2015-2016 budget.

- ✓ There was a discussion about the proposed 2% allocation for public art. Ron Powell gave a scenario of the process that would be followed for an art project. Council members generally agreed with establishing a new bank account for public art funds that will be reconciled and kept by TRAC, with Denise Cook and Leslie Crowder as signatories.
- ✓ Council discussed Community Promotions at length. Members agreed to add a line in the departmental budget called *Race Expense*. A policy will be developed and brought to the next Council meeting by the Police Chief to standardize race events.
- ✓ The Mayor said she would like to add to our snowflake inventory in the next year.

- ✓ It was noted that the Parkway Playhouse has requested free use of the Town Center for one weekend in the upcoming year, in addition to their funding request. Rather than allowing the Playhouse to use the Town Center, Council members agreed to offer \$500 over and above the funding request in exchange for a Sunday afternoon children/family performance on the Square. The extra \$500 could be taken from the \$5500 public art allocation that is proposed. Council indicated they wanted additional financial information from the Playhouse.

Additional work will need to be done on the budget at a future worksession. There being no further business, the meeting adjourned.



Jeanne Martin, Town Clerk



Theresa Coletta, Mayor

Chicken Ordinance Hearing 4-27-15

Why have chickens not been allowed in the Town of Burnsville? The Code of Ordinances do not include chickens and I think that the Councilors and Mayors that have come before us felt it was in the best interest of the citizens of the Town of Burnsville that chickens not be allowed in town. Do we have chickens in Town? Some people still do. Why? No enforcement. Why? The current Animal Control Ordinance is confusing, outdated and some would argue it is not enforceable. I have always asked that the entire Animal Control Ordinance be rewritten so that it can be enforced.

We have received recommendations from the Planning Board that the "Backyard Chicken Ordinance" become a zoning issue as opposed to an Animal Control issue. If you accept their recommendation and approve this ordinance you will be saying to our citizens that animal control is a civil matter, and violations to zoning issues (which are civil matters) can only be resolved by court action. The Code Enforcement Officer cannot simply write tickets for non-compliance of a zoning ordinance - he can only recommend that the town take court action. Our attorney has plainly spoken against including animal control in the Zoning Ordinances.

Some questions I would like you to consider before voting:

Will the fees cover the cost of enforcement if you have to file a court action every time there is a violation?

Will you grandfather in existing chicken coops?

If a property cannot meet the proposed setbacks will you have a hearing to grant a variance, and if so, on what basis will you prove the property owner has a hardship to the use of their property that entitles them to a variance?

Can eggs be sold in residential areas as they are being sold now?

I believe that it is our duty to rewrite an enforceable Animal Control Ordinance that addresses not only Backyard Chickens but clearly defines what animals are allowed in the town limits and under what conditions. The Ordinance should also contain clear and concise enforcement provisions for violators. Animal control is a police matter in any town that I have researched.

I recommend that the Town Administrator, the Police Chief, and the Attorney work as a committee to rewrite and propose to the Council an Animal Control Ordinance that can be enforced. If the Zoning Laws are not in keeping with Animal Control Ordinances then the attorney can advise how to update the zoning laws to be in compliance with the Animal Control Ordinance. Give your citizens an Animal Control Ordinance that can be enforced by an appointed Animal Control Officer with Police Powers and an Animal Control Ordinance that is fair to every citizen and property owner.

I believe it is not in Council's or our citizen's best interests to pass this ordinance. I recommend that you consider the points I have made above and vote against this ordinance.