

BURNSVILLE TOWN COUNCIL
Special Meeting
Tuesday, May 24, 2016

The Town Council, with members Mayor Theresa Coletta, Ruth Banks, Judy Buchanan, and Shannon Peterson present, as well as Ron Powell attending via skype, held a regular meeting on Thursday, Tuesday, May 24, 2016, at the Burnsville Town Center. Also in attendance were town staff members Brian Buchanan, Leslie Crowder, Jonathan England, Chad Fox, Jeanne Martin, and Ronnie Tipton; and visitors David Grindstaff (Yancey Common Times) and Chester Henson. The Mayor, who presided, called the meeting to order, stating that the purpose of the meeting was to consider and possibly take action on the following:

1. Conduct a public hearing pursuant to NCGS 160A-393 to receive testimony on an application for variance from Christine E. Hardin for property located at 321 Nichols Street, Burnsville, NC 28714, being a portion of tax parcel ID #082011559989000. The proposed use of the property to be considered is the location of a new double-wide mobile home.
2. Downtown merchants' presentation by Tim Honeycutt
3. Consideration of three ordinances for street closures
4. Conduct a budget work session for FY 2016-2017

Public Hearing to Consider an Application from Christine E. Harding for a Variance on Property located at 321 Nichols Street, Burnsville, NC 28714, Tax Parcel ID 082011559989000 – The Mayor opened the public hearing and explained that this was a quasi-judicial hearing to consider a variance. She gave a summary of the procedure for this hearing and then asked Zoning Administrator Jon England to announce the application.

- a. **Announcement of Application by Zoning Administrator:** Jonathan England explained that purpose of the hearing was to consider an application for a variance to Section 800(1)(a) of the Zoning Ordinance for the Town of Burnsville. The application was filed by Ms. Christine Harding on April 8, 2016. The variance applied for is to allow a mobile home at Ms. Harding's property at 321 Nichols Street in Burnsville. This property is in the R-10 zoning district.
- b. **Swearing in of witnesses that will give testimony:** The mayor asked for everyone that would be giving testimony to step forward to be sworn in. Those who stepped forward included Town Zoning Administrator Jonathan England, Town Clerk Jeanne Martin, and Chester Henson. Witnesses placed their hand on the Bible as the Mayor read the oath and then asked witnesses to indicate they agreed by saying I do. All agreed.
- c. **Proper Notice:** Jeanne Martin, Town Clerk for the Town of Burnsville, testified that proper notices had been sent in compliance with NCGS 160A(a)(2), and certification had been submitted as part of the record.
- d. **Zoning Administrator Report:** Jonathan England, Zoning Administrator for the Town of Burnsville entered his report into the record, which said:
"In April of 2016, Mr. Henson came to Town Hall and inquired about the permitance of a double wide mobile home on the property located on Nichols Street, which is in the R-

10 zoning district. Mr. Henson was advised by Public Works Director Ronnie Tipton that mobile homes were not allowed in the R-10 Zoning District per the Town's zoning Ordinance, notably Section 800, Paragraph 1, which states that mobile homes on individual lots outside of mobile home parks shall not be permitted within the R-10 District. At this time, Mr. Henson was advised that he could apply for a variance to the zoning ordinance which would then be heard by the Board of Adjustment. As the Zoning Administrator for the Town, I visited the property in question and took photographs of the surrounding areas and the proposed site of the new mobile home. These pictures are entered as evidence in the application folder, along with a copy of the Yancey County GIS map of the area and a copy of the Official Zoning Map of the Town of Burnsville for reference. It should be noted that upon my inspection of the Nichols Street area that there ARE existing mobile homes on this street and on Woodlawn Avenue which runs adjacent to Nichols Street. In hearing this variance, the Board will determine if the applicant meets the qualifications listed under Section 602.04 in the Zoning Ordinance in order to then grant or deny the requested variance."

- e. Testimony in Favor of the Project: Stating his name and address, Chester Henson asked Council to consider the variance as he and Christine E. Harding, who is the owner of the property and with whom he lives, need to erect a new double-wide mobile home on the property because of a hardship caused by declining health. The Mayor asked Mr. Henson if he had additional witnesses he wished to call, and he did not. Exhibits were available for Council review, including the Application for Variance, tax records which depicted the location of the subject property and the location of the proposed double-wide mobile home, and photographs of improvements currently on the subject property.
- f. Testimony Against Project: None.
- g. Affirmation of Testimony: The Mayor asked all those who had testified to raise their right hands to affirm that the information provided in testimony this date was true and accurate to the best of their knowledge.
- h. Motion to adopt the findings of fact: The findings of fact were established as follows:
 - o Based upon the evidence presented to this board including the Application for Variance, tax records which depicted the location of the subject property and the location of the proposed double-wide mobile home, and photographs of improvements currently on the subject property which were submitted at this hearing and marked as "Exhibit A," along with oral testimony given at this hearing, and also that there are no extraordinary and exceptional conditions pertaining to the particular place or property in question because of its size, shape or topography that are applicable to other lands or structures in the same district; and that granting the variance requested will confer upon the applicant special privileges that are denied to other residents of the district in which the property is located; and that a literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located; and that granting the variance requested will not be in harmony with the purpose and intent of this ordinance; and that the variance requested is not the minimum variance that will make possible the legal use of the land, building or structure; and that the variance is a request to permit a use of land, building or structure which is not

permitted by right or by conditional use in the district involved; and that a non conforming use of a neighboring land, structures or buildings in the same district, and permitted use of land, structures or buildings in other districts will not be considered grounds for the issuance of a variance. Shannon Peterson moved to adopt the aforesaid findings of fact. Judy Buchanan seconded the motion. There being no further discussion, a vote was taken on the motion, which passed unanimously.

- i. Motion to grant or deny the variance: Based on the findings of fact, the following conclusions were drawn: If the applicant complied with the literal terms of the ordinance, specifically Section 800(1), he/she could secure a reasonable return from or make reasonable use of the subject property; and that the hardship of which the applicant complains does not result from unique circumstances related to the applicant's land; and that the variance will not be in harmony with the general purpose and intent of the ordinance and would not preserve its spirit; and that granting the variance requested will confer upon the applicant special privileges that are denied to other residents of the zone in which the property is located; and that granting the variance requested is not the minimum variance that will make possible the legal use of the land, building, or structure; and that the variance is a request to permit a use of land, building or structure which is not permitted by right or by conditional use in the zone involved. Judy Buchanan moved to **deny** the proposed variance. The motion was seconded by Shannon Peterson. The mayor explained to Mr. Henson that granting the variance would be breaking our own laws. There being no further discussion, a vote was taken on the motion, which passed unanimously.

The mayor explained that a written decision will be prepared and filed with the Town Clerk and mailed to the applicant, the property owner, and other requesting parties; and the applicant will have thirty days to appeal the decision to the Superior Court after the decision is filed. The Mayor then adjourned the hearing.

Mayor Coletta moved to amend the meeting's agenda to discuss a request to the Planning Board to consider an amendment to the Zoning Ordinance to include mobile homes in the R-10 district. Judy Buchanan seconded the motion, which carried. After Council discussion, Judy Buchanan moved to forward this issue to Planning during Council's June 2nd meeting. Ruth Banks seconded the motion, which carried. Mr. Henson was told he was welcome to attend the meeting but if he was unable he would be given an update by phone and letter.

Downtown Merchant's Presentation – Tim Honeycutt, a downtown business owner, provided an update for Council on the *Better Burnsville Action Guild's* recent activities. In an effort to stimulate business activity, the group has discussed incentives to keep businesses open later in the evening and on Sundays, an increase in the frequency of Square activities, installation of wayfinding signs, etc.

Mr. Honeycutt mentioned that he had represented the *Better Burnsville Action Guild* at a recent meeting with the NC DOT, Young & McQueen and others about concerns over progress being made on the bypass construction project and the loss of businesses due to construction. The DOT was asked if there was a possibility of sharing any penalty money with the Town that could be earmarked specifically to promotions. Senator Ralph Hise has introduced a bill requiring that penalty money be shared with the Chamber of Commerce, but the Senator has indicated that the DOT would probably be reluctant to release that money.

Consideration of three ordinances for street closures – Police Chief Brian presented three ordinances for consideration as follows:

- *Ordinance Declaring a Road Closure for an Event: “Mt. Mitchell Crafts Fair”*
- *Ordinance Declaring a Road Closure for an Event: “Sizzlin Summer Series Bicycle Event”*
- *Ordinance Declaring a Road Closure for an Event: “Hero Day”*

Judy Buchanan made a motion to adopt all three aforesaid ordinances. Theresa Coletta seconded the motion, which carried.

Conduct a budget work session for FY 2016-2017 – Council received a copy of the updated proposed FY 2016-2017 budget. Attention was directed to:

GENERAL FUND

- Revenues:
 - ✓ 10-301-2016 – projections have improved since the last work session. We learned that personal property tax was not included in the previous estimate furnished by Yancey County, as well utility tax revenues, which are significant. The updated budget now reflects personal property taxes estimated at an amount equal to actual revenues collected in 2015, and utility revenues have been added to that total. Ad valorem tax revenues are expected by Yancey County to be \$738,230, and this figure has been adjusted downward to account for a 2% variation which may occur after appeals are heard. Together with personal property tax revenues and taxes on utilities, we are now estimating the 2016 tax revenues at \$822,218.
 - ✓ Council was asked to consider a 1 cent property tax increase. In a conversation this week with the Local Government Commission, we were warned that we were not contributing to the fund balance, and had in fact drawn it down considerably with the purchase of the Fire Department property. It seems reasonable to assume that over an eight-year period, with very little growth in town limits, and with the cost of goods and services growing during that period, there is very little left to put in reserve without a small tax increase.
- Community Promotions:
 - ✓ Approximately \$22,000 in new revenues for economic development is expected. All non-profit contributions were restored to last year’s levels, with the exception of public art. Council agreed to contribute \$2,500 to public art this fiscal year. The Parkway Playhouse requested \$2,000 plus a weekend at the Town Center for a production. Council agreed to fund the Playhouse with the \$2000 requested.

WATER FUND

- Water Revenues:
 - ✓ Council considered a 2% increase, which would result in a basic in-town water/sewer bill of \$39.61 (up from \$38.84). Motion was made by Theresa Coletta to adopt the new rate of 2%. The motion was seconded by Ron Powell. Voting was as follows:

Ayes

Judy Buchanan
Theresa Coletta
Ron Powell

Noes

Ruth Banks
Shannon Peterson (favoring no increase)

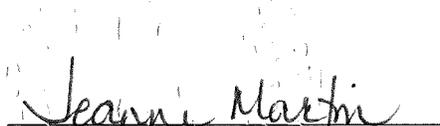
- ✓ Council was asked to consider the purchase a track hoe at a cost of approximately \$33,000, after the Public Works Director realized the cost of rental of that equipment last year was over \$21,000. Ruth Banks moved to approve the aforesaid purchase. The motion was seconded by Judy Buchanan and unanimously approved.

OTHER

Council was asked to consider salary increases at 2%, 2.5%, and 3%. Interested in relating annual raises to a generally recognized scale, Ron Powell asked that we look at the CPI and distribute that information to Council members for review prior to the next work session. Leslie Crowder advised that the percent increases discussed above came from the School of Government's Finance List Serve and the League of Municipalities' latest salary survey.

The next budget work session will be on June 2, 2016 at 4:00 p.m.

There being no further business, Shannon Peterson made a motion to adjourn. The motion was seconded by Ruth Banks and carried.


Jeannie Martin, Town Clerk


Theresa Coletta, Mayor