

BURNSVILLE TOWN COUNCIL
Special Meeting
Thursday, August 11, 2016

On August 11, 2016, the Burnsville Town Council, with members Mayor Theresa Coletta, Ruth Banks, Judy Buchanan and Ron Powell present, held a special meeting at the Burnsville Town Center. Absent from the meeting, but attempting to attend via Skype, was Councilor Shannon Peterson. Also in attendance were town staff members Brian Buchanan, Leslie Crowder, Jon England, Chad Fox, Jeanne Martin, and Ronnie Tipton; town attorney Heather Hockaday; and visitors Bill Baker, Michelle Ball (High Country Council of Governments), Lucy Doll, Dean Gates, former Mayor David Grindstaff, David Grindstaff (Yancey Common Times), Chester Henson, Rhonda Higgins, Ginger Johnson, former Mayor Danny McIntosh, Bobby Silver, John Silver, Phil Trew (High Country Council of Governments), Wanda Proffitt, Wanda Woodby, and others.

****It is noted that while Councilor Peterson attended the meeting via skype, he was unable to participate in voting throughout the meeting.****

Public Hearing on Application for FY 2016 CDBG funding under Title I of the Housing and Community Development Act - Ron Powell moved to open the public hearing for providing explanation and description of the 2016 North Carolina Department of Environmental Quality (DEQ) Community Development Block – Infrastructure Grant (CDBG-I). Judy Buchanan seconded the motion, which carried.

Michelle Ball, Community Development Planner from High Country Council of Governments was present to discuss the purpose of the public hearing for the Town of Burnsville's CDBG-I funding application. Ms. Ball stated that the purpose of the public hearing was to obtain citizen's views and to respond to funding proposals and answer any questions posed by citizens. Ms. Ball also stated that the public hearing must cover the Town's community development needs, development of the proposed activities, and a review of program compliance before the submission of the Town's CDBG-I funding application to the state of the North Carolina.

The Town proposes requesting funding from NCDEQ'S CDBG-I program for the Peterson Trailer Park Sewer Line Rehabilitation Project. The purpose of the CDBG-I grant program are:
To improve the quality of life for low to moderate income people by providing a safe, clean environment and clean drinking water through water and sewer infrastructure improvements and extensions of service.

- To benefit a residential area where at least 51% of the beneficiaries are low to moderate income as defined by the United States Department of Housing and Urban Development.
- To perform eligible activities.
- To minimize displacement, and
- Provide displacement assistance as necessary.

For the fiscal year of the CDBG-I funding available is expected to be \$26,000,000. The maximum available grant \$2.0 million over a 3 year period. Applications for funding are received September 30, 2016.

The CDBG program is able to fund a wide variety of community development activities. The State of North Carolina has chosen to fund two activities: water and sewer infrastructure, and economic development projects that lead to job creation or retention. The infrastructure program, or CDBG-I

program can found a range of water and sewer infrastructure and economic development activities, including, but not limited to the, following:

Water:

- Projects that resolve water loss in distribution systems.
- Projects that extend public water to areas with contaminated wells.
- Projects that extend water lines to areas with dry wells.
- Projects that assist with low water pressure in public water systems.
- Projects that regionalize two or more water systems.
- Project that rehabilitate or replace a water treatment plant.

Wastewater:

- Projects that resolve inflow and infiltration to collection systems and surcharges from pumps stations and manholes.
- Projects that extent public sewer to areas with failed septic tanks.
- Projects that rehabilitate a wastewater treatment plant to allow for greater efficiency/compliance with regulations.

The Town is seeking an amount in CDBG-I funds not to exceed \$900,000.00 for the Peterson Trailer Park Sewer Line Rehabilitation Project. The purpose of the Town /City/County's request is to Replace existing bituminous fiber pipe (knows as "orangeburg pipe") within the mobile home park with approximately 2,000 linear feet of 8-inch diameter ductile iron or PVC sewer lines, with associated precast concrete manholes, and 4-inch sewer service lateral piping to connect the existing mobile homes to the new sewer main. Sewer lines will be replaced on David Park Drive, Bridgette Lane, Brooke Lane and on Love Fox Road to reconnect to the existing sewer line and serve approximately 45 existing residential customers. A total of 100% of the CDBG- I funding will be used to benefit Low to Moderate Income (LMI) people. The project area in the Town of Burnsville has been determined to have an LMI rate, through door to door income surveys, of 100%. The project area includes Approximately 45 homes within the Peterson Trailer Park off Love Fox Road, including David Park Drive, Bridgett Lane, and Brooke Lane.

The range of activities covered by the CDBG-I funds for the Peterson Trailer Park Sewer Line Rehabilitation Project includes:

- Construction.
- Environmental Review
- Engineering Design
- Construction Administration and observation.
- Legal activities.
- Surveying.
- Grant Administration.

If the Town of Burnsville is awarded a CDBG-I grant, the town is required to adhere to federal procurement requirements and other federal regulations which include:

- American with Disabilities Act/Section 504 Survey

- Davis-Bacon & Related Labor Acts
- Adoption/Submittal of a Citizen's Participation Plan
- Adoption/Submittal of an Equal Opportunity Plan
- Adoption/Submittal of a Fair Housing Plan
- Adoption/Submittal of a Language Access Plan
- Adoption/Submittal of a Relocation Assistance Plan
- Adoption/Submittal of a Section 3 Plan
- Excess Force Provision

The State of North Carolina requires that if the Town of Burnsville receives CDBG grant funding that the town will certify that they will comply with the requirements of the general displacement and relocation policy for CDBG grant funding. This policy assists low to moderate income people with costs associated with relocation or displacement, should such relocation become necessary due to the project activities. CDBG funds can be used for those costs, if necessary. If no displacement and relocation will occur as a result of the proposed CDBG grant activity, then the Town of Burnsville confirms that during this public hearing.

In the past, the Town has applied for and received for the following completed CDBG project:

- Altec Industries – Waterline & Sewer Line Extension Project
9300 lf of water line installed and 8800 feet of sewer line installed to the new Altec building. As of June 2015 450 jobs were created through this project.

The Town will submit its CDBG-I application for the Peterson Trailer Park Sewer Line Extension Project on September 30, 2016. The CDBG-I application will be available for review during normal business hours at the Burnsville Town Hall, 2 Town Square, Burnsville, NC 28714. Additional information is available from Ronnie Tipton, Public Works Director at (828) 682-2420. Should you have any complaints or grievances regarding the subject public hearing, they should be addressed to the addressee mentioned above within 10 business days or by August 25, 2016 and a written to the written complaints and/or grievances will be sent by the Town/City/County within 10 business days, where practicable.

Former mayor Danny McIntosh commended and encouraged the Town Council on its pursuit of grant funding for projects that will provide service to folks who need it.

Motion was made by Ruth Banks to close the public hearing. The motion was seconded by Judy Buchanan and carried.

Motion was made by Judy Buchanan to adjourn. The motion was seconded by Ruth Banks and carried.

- **Public Comment** – The following individuals signed up to speak during the period set aside for public comment:
 1. Mike Hoskins commented on the clean-up day that was held recently with the assistance of the public works staff. Progress was made, but he suggested that a few “Do Not Litter” signs be placed around town. He inquired about the town’s street sweeper, and was told the machine hasn’t worked for years. Mr. Hoskins said it would be an asset to have it working and running around the square and maybe down some side streets.
 2. Ernie Eberwein spoke on the topic of the pavilion that is proposed for installment on the town square, and his concerns about the impact that increased foot traffic would have on the lawn.
 3. Former mayor Danny McIntosh, stating that it has nothing to do with the donors, said he was opposed to erecting any structure on the town square for a number of reasons:

- a. The town already owns a mobile performing stage, which has served us well;
- b. Permanent structures invite people to take advantage of the opportunity and will eventually trivialize the use of the square, which is now somewhat limited; and
- c. The proposed structure will be a venue for performances, and the town owns and still owes on the best building you could have for that purpose as well as others, and we should not invite that competition.

Mr. McIntosh suggested the issue be placed on the ballot for the November election and let the people decide if they favor the pavilion or not.

4. Lucy Doll gave an update on the upcoming Literary Festival.
 5. Dr. Lloyd Bailey thanked Council for all they do, including providing support for the History Association, and mentioned that the acquisition of the Association's building was due to the efforts of Mayor Theresa Coletta. He told Council that the real name of the Town Square is "*Bailey Square*" by vote of the County Commissioners.
- **Adoption of Agenda** – Judy Buchanan made a motion to adopt the agenda as presented. Ron Powell seconded the motion, which carried.
 - **Consideration of Minutes** – Available for review were minutes from a meeting held June 21, 2016. Judy Buchanan moved to adopt the aforesaid minutes. Ruth Banks seconded the motion, which carried.
 - **Resolution for Town of Burnsville Application for Community Development Block Grant Funding for Infrastructure Improvements** – Council was told that this Resolution will be considered at a Special Meeting to be held on August 16, 2016. The mayor reminded Council that the Resolution is critical to the CDBG grant.
 - **Presentation on Otway Burns Pavilion** – The following people spoke on behalf of a pavilion that is proposed to be erected on the Town Square, and gifted by the Warren Bare family:
 1. Wanda Proffitt remarked that if we were to promote and host more events we would get more people in town to shop, dine, etc., thereby encouraging economic growth. She said the strategic plan has encouraged that for years. We now have had a local family come forward to support the project to replace our portable trailer stage. The drawings available are for an open-air structure, but it is only a conceptual proposal being presented for consideration. It will depend on if the County and Town decide whether it is a benefit, and the Chairman of the County Commission is interested in hearing the Town Council's thoughts.
 2. By way of introduction, Bill Baker told Council his background was in events planning. He said he envisions the proposed structure to be multi-functional, including scrabble competitions, chess tournaments, as well as many other positive things that would bring people into town and help businesses, weather notwithstanding.
 3. Steven Elderbrock, on behalf of the Parkway Playhouse board and also as a local pastor, said he sees the proposal as a win-win idea. It is beautifully designed, and could host Parkway Playhouse events, dances, music, etc., and said the Town Center would not be as visible or inviting to the general public.

Mrs. Proffitt advised that Yancey County Commissioners appointed County Planner Jamie McMahan to form a small committee to study the proposal, and suggested that Ronnie Tipton be the logical town representative to the committee. Ron Powell moved to appoint Ronnie Tipton to the aforesaid committee to work with Jamie McMahan on this issue. Theresa Coletta seconded the motion. Voting was as follows:

Ayes

Ruth Banks
Theresa Coletta
Ron Powell

Noes

Judy Buchanan

Motion carried. It is noted that while Councilor Peterson attended the meeting via skype, he was unable to participate in voting throughout the meeting.

- **Closed Session to Discuss Matters Relating to the Location or Expansion of Business in the Area Served by the Town of Burnsville pursuant to NCGS 143-318.11(a)(4)** – Judy Buchanan moved to enter closed session pursuant to NCGS 143-318.11(a)(4). Ron Powell seconded the motion, which carried.

Judy Buchanan moved to reconvene in open session. Ron Powell seconded the motion, which carried. Theresa Coletta moved to authorize a Notice to publicize that Council intends to consider a Resolution to *Enter into a Lease Agreement* at its regular October Council meeting. Judy Buchanan seconded the motion, which carried.

- **Planning Board Report** ~ Dean Gates, Planning Board Chair, reported:

1. Minutes from the Planning Board meeting held July 21, 2016 were available for review.
2. Report from the Planning Board on the mobile home ordinance and subsequent report on recommendations for conditional use in the R-10 zoning district: The planning Board was unanimous in its decision to make no changes to the current ordinance, which disallows mobile homes in town, as there are approximately 110 grandfathered units already in town.

Ron Powell commented that he attended the last Planning Board meeting with an open mind to mobile, modular and stick-built homes, and that he agreed with the decision to recommend no change to the ordinance. He said he thought the members on the Board are equipped to decide what is best for the Town of Burnsville as it relates to zoning matters, and mentioned there was an hour-and-a-half discussion before the decision was made.

Attorney Heather Hockaday listed options available to Council, stating that Council could accept the recommendation of the Planning Board to not change the zoning ordinance to allow mobile homes on private lots as a conditional use or Council could act on its own and call a hearing and adopt a conditional use provision to allow mobile homes on private lots.

- **Consideration of Proposed Revisions to the Zoning Ordinance (Harding Property)** – Council was reminded that Chester Henson wishes to locate a small double-wide on property across the road from his current residence, and that Council could choose to accept the Planning Board's recommendation, or act on its own and schedule a hearing, and amend the ordinance allowing mobile homes as a conditional use, which would affect the entire R-10 district, necessitating quasi-judicial hearings for every mobile home request.

Theresa Coletta moved to reject the Planning Board's recommendation on conditional uses for mobile homes in the R-10 district, and move forward to establish criteria for conditional use. Judy Buchanan seconded the motion, stating that where the mobile home will be placed is not a very visible location and, in this case, Mr. Henson has indicated a willingness to meet reasonable conditions, once established. There was no further discussion. Voting was as follows:

Ayes
Judy Buchanan
Theresa Coletta

Noes
Ruth Banks
Ron Powell

Councilor Shannon Peterson was unavailable for the vote, and the motion failed for lack of majority.

Wanda Woodby (NAACP) agreed that mobile homes can be unsightly in many cases, mentioning that many occupants are transient. In this case, however, Mr. Henson is on private property, his double-wide will not be unsightly, and he would agree to the conditions imposed. She said she has seen many houses that make a double-wide look like a mansion. She also said there are trailer parks all over town that have been grandfathered in. She said when you have iron clad rules and you can't take a situation and dispense of the rules, those rules rule you.

Robin Ellis (NAACP) commented that Mr. Henson, who has always lived in this community, is seeking permission for a double-wide (a non-permitted use) that he will use as his retirement home, and there are already two trailers in the neighborhood. She noted that the Town of Burnsville is willing to seek \$900,000 worth of infrastructure enhancements to benefit a trailer park.

Attorney Heather Hockaday stated the Town must follow the State law with regard to variances and under that law a variance couldn't be allowed to get around a non-permitted use in the ordinance. Ronnie Tipton stated that the ordinance prohibiting mobile homes on private lots (only in trailer parks) had been in effect since 1984. Mrs. Hockaday pointed out that there is a provision in the ordinance which allows anyone with an existing mobile home on their property to remove it and replace it on their land within 180 days of removal. Robin Ellis stated that Mr. Henson had a mobile home on this property, but it had been many years ago.

- **Transportation Alternative Funds Available for Handicap Ramp Upgrades** – Council heard that the DOT is allocating \$7.5 million state-wide for upgrades to municipal handicap ramps. Smaller municipalities will not be required to provide matching funds. The town has applied to participate in this program.
- **Mayor's Administrative Report**
 1. Water/Sewer Grant Update (Asset Management Plan) – Councilors were reminded of the monthly work session on August 16th, during which the minutes from the public hearing and a Resolution will be considered. Councilor Powell was concerned that he hadn't been involved in meetings regarding the Capital Improvement Plan. The Mayor responded that the CIP is still in the review and modification process, and there haven't any meetings thus far.
 2. Council Work Session August 16, 2016 – This meeting will be held at the Burnsville Town Center at 3:00 p.m., and will last for two hours or less, due to a rental conflict.
- **Petition for Voluntary Annexation ~ True North Equities, LLC** – This issue will be considered at the September 1, 2016 Regular Meeting.
- **Department Updates:**
 1. Administration
 - a. Personnel Policy Update – Copies of the rewritten Personnel Policy were distributed for review and will be considered at the work session in September.
 - b. Pursuant to GS 105-369(a), *Tax Delinquent Report* dated August 4, 2016 was provided as an update of uncollected revenues. A variety of collection efforts are underway.

- c. Finance Issues – the *Budget vs. Actual* dated August 4, 2016 was furnished to Council.
- 2. Fire Department ~ Chief Niles Howell reported:
 - a. Status of Property – two architects have been interviewed at length by Chief Niles Howell, Judy Buchanan, Ronnie Tipton, Theresa Coletta, and Jon England.
 - 1) Fundraising efforts – none reported.
 - b. Operations –
 - 1) Council reviewed the Fire Department’s Monthly Update
- 3. Police Department ~ Chief Brian Buchanan reported:
 - a. Crafts Fair ran very smoothly;
 - b. Councilors were asked to consider an Ordinance for Street Closure for *Old Timey Days* and *Farm to Fork* events. Additionally, Council considered a sponsorship request for the *Farm to Fork* event. Theresa Coletta moved to adopt the *Old Timey Days* ordinance. Judy Buchanan seconded the motion, which carried. Theresa Coletta moved to sponsor the *Farm to Fork* event and to adopt the ordinance for street closure. Ron Powell seconded the motion, which carried.
- 4. Public Works Department ~ Public Works Director Ronnie Tipton reported:
 - a. Micaville Water Line Extension – US Fish and Wildlife stopped the project because of one creek crossing. The issue was discussed with McGill and re-engineered to eliminate an open cut and incorporate bore and jack under the stream, at an additional but unavoidable cost. The project is currently in the state clearinghouse for approval.
 - b. East Yancey Sewer Plant – All mechanical systems are operating. Mr. Tipton explained that the new plant will be a storage facility, since there is not going to be enough flow, and the County has applied for a pump and haul permit for sewage to be hauled to our system.

Mr. Tipton advised that the current operation agreement doesn’t state anything about treatment of hauled wastewater. Councilors considered options, which included charging the East Yancey Sewer District or not, and whether such charge should be at the in-town or outside rate, or at a reduced rate of some sort.

Ron Powell moved to charge the East Yancey Sewer District an out-of town rate to process sewage coming from the East Yancey Sewer Plant. Theresa Coletta seconded the motion, which carried.

- c. The department has been working to make a multi-family dwelling safe for occupants to live in. John England has written letters, performed inspections, and worked diligently to make the landlord address health and serious safety issues, but there is still non-compliance. After consulting with legal counsel, it has been determined that an ordinance would need to be drafted for Council approval to enable enforcement of the General Statutes because it is an occupied building. Also necessary would be a Resolution to declare the area “in special need of revitalization.”

Ron Powell moved to direct Heather Hockaday to work with Mr. Tipton towards resolution of this issue.

- d. Ron Powell said he would like to get information on funding for sidewalk improvements to the Department of Social Services from the end of East Main Street.

Town Center ~ Facility Manager Chad Fox provided an update of events scheduled in the upcoming month.

▪ **Council Members Reports**

1. Mayor Theresa Coletta said that she left the last town council meeting distraught because of the Henson housing situation, and her feeling that the town ordinances need to have provisions for the conditional use of mobile homes. She said she has always tried to work for the homebound and elderly, and the meeting left her extremely frustrated.

After the meeting she sent an email from her personal email account to former Mayor David Grindstaff, with whom she entrusted her friendship, sharing her frustrations. Unfortunately, Mr. Grindstaff distributed the email publicly. She said she takes ownership of the email and has had the decency to ask forgiveness from those mentioned in the email, specifically Ron Powell, Dean Gates, and especially Ruth Banks, because “there is not a mean bone in her body.” The mayor said her frustration does not in any way excuse her email, which continues to circulate, and she has consulted with an attorney because of the intent of those for whom it was not intended to circulate. The mayor said she was truly sorry and offered her sincere apologies. She said it is hard to admit what you shouldn’t have done, but everyone makes mistakes.

Judy Buchanan said she has seen the Mayor’s email, and it wasn’t very nice, but added there probably isn’t anyone that hasn’t said or done something they wish they could take back. We’ve all prepared emails and unfortunately hit the “send” button. She commended the Mayor for doing the right thing with her apologies. She said she hoped everyone would be patient and kind and the apologies would be accepted.

Ron Powell said he spent a large part of the past month listening to citizens discuss this email, which was not only sent to former Mayor David Grindstaff, but also to a current Council member. After waiting a month to hear from other Council members about this email, he called Councilors Shannon Peterson and Judy Buchanan, leaving him with the impression he was out of the loop. He said he did receive an email from the mayor asking for him to schedule a meeting with her so she could apologize; however a private apology would not be acceptable. He feels there is “a culture of fear with staff and Council” as there is worry that their characters will be thrown around. He said he appreciates the mayor owning the action, and accepted the public apology.

Councilor Powell spoke about two remedies to the situation:

- ✓ The apology, which has already been accepted; and
- ✓ A professional administrator is needed. He feels the mayor is not sharing information. It is an odd and old-timey relationship for five to run a town the size of Burnsville. He would like consideration of a change to the town charter to council-manager form of government scheduled on next month’s agenda.

The mayor said she has supported an administrator in the past, and has since tried to be more available than any other mayor. She said she offered to meet with everyone involved in the email to apologize.

Judy Buchanan said that the original email was from the mayor’s personal account and it was reprehensible that Ruth Banks received a copy. Ron Powell commented that Shannon Peterson also shared the email.

Councilor Powell said he accepted the apology and wants to move forward to a council-manager form of government. Judy Buchanan said the mayor is very open with what she is doing, and has had no problem keeping up with her. She does not see where the information about staff is coming from.

The mayor reminded Council that in the absence of a manager, administrative duties default to the mayor. She said she thinks every day about what she can do for her town to make it better, and said David Grindstaff is wrong for sharing her email.

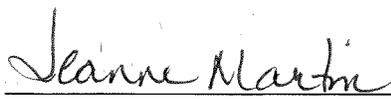
Council agreed to place consideration of a council-manager form of government on the next agenda.

▪ **Updates from Advisory Boards and Non-Profits**

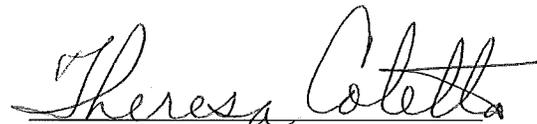
1. High Country Council of Governments (minutes and financials were available).
2. Yancey County Economic Development Commission
 - a. Consideration of reappointment of Erica Deaton to serve her second three-year term on the EDC Board. This appointment alternates with Yancey County, and is limited to a person who owns or works for banking or financial services entity; shall be appointed by appropriate authority (town or county) based on turn of rotation. Judy Buchanan moved to appoint Erica Deaton to the EDC Board. Ron Powell seconded the motion, which carried.
 - b. Wanda Proffitt updated Council on events for the Mt. Mitchell 100th year celebration.
 - c. Council was reminded of the *Farm to Fork* dinner.
 - d. Mrs. Proffitt spoke to Council about a shortfall on funding the Sanford Holzouser report. It was agreed that the budget will be studied for opportunities for further funding. Ron Powell mentioned he would like to see the town contribute just 10% to the cost of the report.

- **Next Regular Town Council Meeting** – The next Town Council meeting will be held on Thursday, September 1, 2016 at 6:00 p.m., at the Burnsville Town Center to consider regular business for the month of September.

There being no further business, Judy Buchanan moved to adjourn. The motion was seconded by Ron Powell and carried.



Jeanne Martin, Town Clerk



Theresa Coletta, Mayor