

**MINUTES
CITY OF BUENA VISTA
REGULAR COUNCIL MEETING & PUBLIC HEARING
COUNCIL CHAMBERS
October 5, 2023, 6:00 P.M.**

The City Council for the City of Buena Vista met for a Regular Council Meeting and Public Hearing on Thursday, October 5, 2023, at 6:00 p.m.

Council Members Present:

Steve Webb
Danny Staton

Mayor Bill Fitzgerald
Vice-Mayor Cheryl Hickman
Stanley Coffey

Members Absent: Tyson Cooper & Melvin Henson

ADG #1: PLEDGE OF ALLEGIANCE AND PRAYER

Councilman Coffey delivered the opening prayer.

ADG #2: BUENA VISTA CITY COUNCIL PUBLIC HEARING

Mayor Fitzgerald opened the public hearing.

Pursuant to Code of Virginia Section 15.2-2204 and 15.2-1800, and the City of Buena Vista Land Development Regulations, notice is given that the City Council of Buena Vista will hold a public hearing to receive comment on the following matter:

Abandonment of City Right of Way: 200 feet in the 200 block of Poplar Avenue.

Mr. Tom Roberts opened by saying that this project has been working its way through the Planning Commission and the Board of Zoning Appeals as well. He stated that the 'big picture' is that this is a proposal to build three houses on an undeveloped tract of land and noted that the site plan lays it out pretty well showing the three houses and the proposed new private road. It is an undeveloped portion of Poplar Avenue. We are looking at abandoning this to allow the construction of a private street to access these lots. He then spoke about the approval process for this. This is going to require abandonment of the street (200 feet of Poplar Avenue) and the Planning Commission looked at this but did not make a motion either way on a recommendation. The Planning Commission looked at the site plan and they approved it at their September meeting. They did put in several conditions which are listed in the staff report: the private street must adhere to the VDOT road standards, which would be required anyway; the development must obtain an Erosion and Sediment Control permit; the private covenants governing the road maintenance, the ingress and egress, and the utility cross-easements all be approved prior to issuance of the Certificate of Occupancy. The Board of Zoning appeals reviewed these three lots and approved a reduction in the minimum frontage. Typically, residential lots in R-2 would require 75 feet of street frontage, but that is reduced to 67 2/3 for these three lots. Going through the site plan, Mr. Roberts noted that the three houses will be served by separate water lines and a shared sewer line. He further explained that the water lines will be three separate lines going to three separate meters that will be set in the right-of-way of 3rd Street for meter reading purposes and

for the public/private interface for the water lines that will be at 3rd Street. For the sewer, there will be a single line running along the private street. Since this will be all private, there will be maintenance agreements between the three properties and utility easements through there; those private property owners will have maintenance responsibilities for the sewer until it gets to 3rd Street. Similarly, as a private street, the maintenance of that will be the responsibility of the property owners as well. The private street will be 20 feet wide and will have road-side ditches on either side to accommodate drainage. The road-side ditch on the side of the houses (west side) will accommodate any runoff from the hill where the houses are. He also noted that in the site plan there is a proposed drop inlet as well as a proposed storm sewer that goes across 3rd Street; the plan is that this storm sewer will connect with an existing storm sewer pipe that then flows into Pedlar Gap Run. He noted that as they have dug more into the details for the storm water, they have determined that the storm water pipe that goes down along 3rd Street that we want to tie into is [most likely] undersized for what it carries, so that pipe will need to be upgraded in order to handle the flow of this new development plus what it is already handling.

Councilman Coffey asked what size pipe is there currently. Mr. Roberts responded that it is just a 12" or 18" pipe which handles multiple blocks of runoff. Councilman Coffey then asked what the proposed size is for the upgrade. Mr. Roberts stated that they do not know yet, so they will require engineering from the developer to determine what's going into that pipe in the existing City system, how big does it need to be, and how much is he going to generate on his site that is going to flow into that. Once the developer completes the engineering, they will know what size to upgrade that pipe to.

Mr. Roberts then mentioned that the portion of Poplar Avenue to be abandoned is "split in half" with half for Mr. Holguin and half for Mr. Eason Roberts. He noted that Mr. E Roberts is the property owner on the other side, and he would like to purchase his half. Therefore, 25 feet of the width will go to Mr. Eason Roberts and 25 feet of the width going to the developer, Mr. Holguin. The abandoned portion is 200 feet long by 50 feet wide for a total of 10,000 square feet. The purchase price for each half will be \$3,750 using our 75¢ per square foot formula. There are no public utilities in this right-of-way; in the future there will be private utilities in the right-of-way and the new private street is going to be built on the western half.

Councilman Staton urged that we need to make sure when we do this study that we are giving it serious thought from beginning to end because in that area there have been several times that that place has been under water. He further noted that if the pipe isn't carrying the water now and the trees will be cleared out, we need to make sure we put enough drainage in to carry what we need.

Mr. Tyree noted that Public Works has also reached out to the Army Corps of Engineers because part of the creek in that area is serviced by some of the FEMA work that was done for the flood mitigation and there is another part of the creek that hasn't been serviced. Part of where the Army Corps of Engineers did work for the City, we need some maintenance done. They are supposed to be meeting with us in the next week or two to talk about doing some maintenance as there is some sediment on a lot of the creek. He also stated that he has spoken to the Sheriff's Department about sending some community service workers up there to clean some of that creek up. He also noted that some of that creek is on private property, so unfortunately it will be up to those property owners to clean those portions as we do not have any enforcement over that.

Vice-Mayor Hickman asked if this new private road would be affecting any other property owners other than Eason Roberts. Tom Roberts stated that there aren't any other property owners that will be affected.

Mr. Eason Roberts, 220 Poplar Avenue, stated that they had Mr. Tyree come down the other day to look at a few things. He mentioned that Mr. Tyree is in agreement with him that they do have some problems there. The creek narrows and keeps narrowing as it goes down and when you get down to Woodland Avenue, they have choked a 6-foot pipe with a 4-foot pipe which is rotted out and it's caving in around it. He stated that these are some of the problems they are trying to deal with before we have other problems. They want to make sure everything else is taken care of before we put houses in there and everybody in our neighborhood reaped major problems off of it. In response to the comment about the road being built to VDOT standards, he stated that in the last meeting he was at, [the road] was approved as a government road, which isn't VDOT. This means ditches on each side and gravel and that's not a VDOT road. Another issue they looked at is a deep gully and they had concerns about filling it in and building on it or beside it. He also stated that he heard Mr. [Tom] Roberts say that there would be a drop inlet on one side, but what about the other side, so where is that water going? Mr. Tom Roberts explained that there is a pipe underneath the entrance to the private street carrying the water from the uphill ditch under that entrance to that drop inlet. Mr. Eason Roberts asked to clarify that both ditches will be flowing to the one drop inlet and across the road and Mr. Tom Roberts stated that that is correct. Mr. Eason Roberts stated that he is just trying to look out for his neighborhood, and he feels that they have gotten some things straightened out with Mr. Tyree and based on Mr. Tom Roberts' report, it seems like other things are going to get straightened out. He mentioned that it seemed like no one was looking at the bigger picture.

Mr. Ronald Cash, 253 E. 32nd Street, was next to speak. While admitting that he doesn't "have a dog in the fight here", he stated that he is curious as to why when there is a parcel of land with 203 feet of frontage, we're not adhering to general standards of the 75 feet of frontage or the minimum square footage. Mr. Tom Roberts responded that in the R-2 zone where these houses will be, the minimum lot size is 9,375 square feet, which is one and a half lots. He furthered that these lots will meet the minimum lot size because they will be longer than the standard 125 feet; they will be 150 feet long but will be about 13 1/3 feet narrower than the standard. Overall, the square footage meets the standard, but the dimensions are different. Mr. Cash stated that he appreciates all of the new construction projects as they add to the tax base, but he said that it is troublesome when we diverge from the standards and make exceptions. He stated that he is also concerned about the width of the proposed private street and the opportunity for fire trucks or EMS vehicles to be able to answer calls on a street that is only 20 feet wide and that is a concern that needs to be thought about. He then stated that most troubling is that this person is not able to adhere to the general standards and go with the 75 feet of frontage and there are obviously a lot of other issues with the water. In closing, Mr. Cash stated that he would hate to see the rest of the community on Robinson Gap and Hazel Avenue suffer because of bad decisions that are made here.

Mayor Fitzgerald closed the public hearing.

ADG #3: APPROVAL OF THE AGENDA

Vice-Mayor Hickman moved to approve the agenda, seconded by Councilman Webb, and carried by Council.

ADG #4: APPROVAL OF MINUTES FROM THE SEPTEMBER 7, 2023, PSA AND REGULAR COUNCIL MEETING

Motion to approve the minutes was made by Councilman Coffey, seconded by Councilman Staton, and carried by Council with the exception of Vice-Mayor Hickman who was absent from that meeting.

ADG #5: RECOGNITION/COMMUNICATION FROM VISITORS

Citizens who desire to speak to council will be recognized at this time. Please limit your statement to three (3) minutes.

Mr. Calvin Smith, 171 E. 31st Street, approached Council and stated that about two months ago they went home and there was a guy surveying on their property. They asked what was going on and his response was that he was surveying two lots which would be on the left and three on the right (which would be in the woods). He said that his wife called Mr. Roberts and asked him about this, and Mr. Roberts said that a gentleman was planning on putting some townhouses in there. His wife asked who would be putting the sewer in; Mr. Smith stated that on 31st Street where they live, there is no sewer, that they have a septic tank, and that the City would never put sewer in for one person because it would cost too much. Mr. Roberts told Mrs. Smith that the City was thinking about putting the sewer in and a pumphouse to pump it up to 32nd Street. Mr. Smith opined that it seems to him that the developer wants to build apartments for SVU, and he wants the taxpayers of Buena Vista to pay for his water. He further opined that if he can afford to put the houses in there, then he needs to pay for the pumphouse. Mr. Smith noted that his wife also asked Mr. Roberts about the driveway, and he said that the City was thinking about paving it and maintaining it. He said that he and his wife have been after [Mr. Roberts] for years about maintaining it and he won't and that he says the City doesn't maintain alleys, which is a lie because there is one off of Longhollow Road that the City just went up and fixed. Mr. Smith said he told Mr. Roberts that he needs to maintain the alley because if there is ever a foot of snow and there is an emergency at his house, the fire department or rescue squad wouldn't be able to get in there. He then asked if Buena Vista wants to be liable for what happens because the City wouldn't maintain the alley. But then the developer comes along, and Mr. Roberts wants to build him a road and maintain it. He said that it is not up to the taxpayers of Buena Vista to pay for a pumphouse for "the man". Mr. Smith said that he wanted to voice his concerns before this happens because the land hasn't been sold yet.

ADG #6: REPORTS

1. Mayor

None.

2. City Manager

Mr. Tyree welcomed Superintendent Dr. Tony Francis and School Board Chairperson Teresa Ellison to present a gift to the City. Dr. Francis stated that the Blues Foundation, which supports our teachers and students, is doing a fundraiser. The original Parry McCluer building is 100 years old this year, so they are doing a Centennial print and are selling that as a fundraiser. They commissioned Ms. Lisa Floyd, who has done the murals around town, and had her make 500 prints, signed and numbered. They have framed a print for the City – number 92 since the City was founded in 1892. Ms. Ellison said that when the Blues Foundation started talking about this, they wanted to include some of the different stages of the school. Some of the features of the picture are Professor McCluer, Yosemite Sam, the original school, the new version of the school, and even the bleachers where they used to play games there.

He reminded everyone that Mountain Days will be on October 14th from 10 a.m. – 4 p.m. with an after-hours event in Town Square from 5 – 7 p.m. and Spooktacular will take place downtown on October 31st from 4 – 6 p.m.

He informed Council that our mechanic, Ryan Groah passed his Virginia State Police Motor Vehicle Inspection exam. This will allow him to perform inspections on all City vehicles. It will take about 3-4 weeks for the background check to come back. He noted that we don't expect any problems with

that as he is a former Buena Vista police officer. The state police also have to come in and do an inspection of our garage and our inspection bay. This will save us some money and time.

The EV chargers that Council approved a few months back have begun being installed in the City parking lot on Magnolia Avenue.

The Department of Historic Resources approved Bontex to have state level historic designation. The national designation is being sought so a developer could qualify for state and federal preservation tax credits.

He noted that he had emailed Council regarding a local business owner who wants to paint the light pole in front of his business downtown. Mr. Tyree noted that this is not something that the City has traditionally allowed for various reasons: if a business leaves, if they break something, or get hurt in some way. Our Code actually says that you're not supposed to do anything on public land unless approved by City Council. He said that if this a code they think we need to look at, to let him know and we will put it on a future agenda.

USDA approved the refinancing for the water system debt and we will be closing on it before the end of the calendar year.

3. City Attorney

None.

4. Council Committee/Representative

None.

ADG #7: CONSIDER APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES:

CENTRAL SHENANDOAH EMS COUNCIL

The Buena Vista seat on the Central Shenandoah EMS council is now vacant following the passing of Mr. Ronnie Slough. This is a three-year term that will expire on September 30, 2026. This is the first time it has appeared on the agenda.

Councilman Coffey made a motion to appoint Ms. Kathleen Beverley to the Central Shenandoah EMS Council. The motion was seconded by Councilman Webb and carried by Council.

OLD BUSINESS:

NONE.

NEW BUSINESS:

NB #1: MR. BRYSON ADAMS TO PRESENT RARO DIRECTOR'S REPORT

Mr. Adams was unable to attend the meeting. This will be carried over to the next regularly scheduled meeting.

NB #2: FIRST READING OF AN ORDINANCE TO ABANDON CITY RIGHT OF WAY: 200 FEET IN THE 200 BLOCK OF POPLAR AVENUE

Councilman Webb made a motion to table this until we get an engineering report. He stated that he went up there and looked at it and the pipe that crosses the City street is way too small and is definitely going to be a problem. Councilman Coffey seconded the motion to table, and it was carried by Council.

NB #3: MR. TOM ROBERTS TO PRESENT DRAFT TEXT FOR ON-STREET PARKING REGULATIONS

Mr. Roberts opened by stating that this is an issue that has come up a number of times over the last year. There was a meeting between Mr. Roberts, Mr. Tyree, Chief Handley, and Mr. McMahan to

discuss street parking, trailers and RVs, and vehicles on the street. The issue that has been raised is some concern about parking of RVs, trailers and similar vehicles that aren't passenger vehicles on the street. They looked into this and found that most other localities do not allow street parking of RVs and trailers, so they are proposing to limit street parking to only passenger vehicles, pickup trucks, and panel trucks less than 7,500 lbs. That would mean that most RVs and all trailers would be prohibited from parking on the street. They would have to be parked somewhere on their property. There are a couple of exceptions: if the vehicle is actively loading or unloading and for construction sites (a trailer could be parked in front of the construction site only for the duration of the construction). This would apply citywide except in any area that we might designate for parking. For example, we could put up signs for truck parking if there was some area that we identify that it would be appropriate for there to be trailers, RVs, or trucks then we would just put up a sign that says, "trailer parking here" or "truck parking here", etc. Mr. Roberts noted that there is already a prohibition in our Code to parking tractor trailers in residential areas, but this would supersede that because this is a broader net. There are numerous benefits to making this change. Large vehicles that are parked on both sides of the street choke the travel way on a lot of our residential streets, so it is hard for two vehicles to pass. Large vehicles, like RVs and trailers, can block visibility around corners. Another concern is that parking of these non-passenger vehicles are taking up the spaces that passenger vehicles could be using. We have heard some concerns about houses where you have multiple vehicles parking on the street at one house limiting parking for other people. If we pull RVs and trailers off of the street, then we are just generally adding more parking. Of course, that will vary from block to block. He also noted that most other cities and towns prohibit on-street parking of RVs and trailers for these reasons.

Councilman Coffey asked if this would pertain to all recreational vehicles, such as boats. Mr. Roberts said that it would. Vice-Mayor Hickman also asked about golf carts and motorcycles. Mr. Roberts said that they hadn't necessarily thought about golf carts or motorcycles, so they will look at those. Councilman Webb asked about dumpsters for people who are working on a house and suggested that those cases could be given limited times or a special permit. Mr. Roberts noted that that could fall under the construction exemption. He stated that all of this was helpful feedback. Vice-Mayor Hickman noted that there are a lot of people that keep their lawn mowers and such on trailers as well. Mr. Roberts stated that we recognize that this will be a change from what we've done before.

Mr. Tyree stated that it will make it easier for law enforcement to enforce this when it is clear as to what is allowed and what is not allowed.

Chief Handley said that the current ordinance is actually quite convoluted, but even when it is read in a light most favorable to the citizen who might be in violation, you still can't park a lot of the things we're talking about on the street. What this does is clarifies the language and makes enforcement clearer and makes it easier for citizens to understand. The intent would be to put this out so that everybody understands this is what IS coming, not so much that if approved, the next morning we're going to start writing tickets. This is a safety concern that we are regularly receiving comments about, and the language of this text does clarify and makes it easier to understand. He also stated that golf carts certainly don't fall under passenger vehicle and wasn't something they had thought about. He added that he would submit that a motorcycle is a passenger vehicle, however we can certainly tighten that language up. This will make it easier for citizens to understand that this is what *is* allowed, and this is what the City will *not* allow, and law enforcement can go from there. He also noted that even still, there is the matter of discretion such as the idea of when people get building permits to have those conversations about dumpsters or trailers that are working on the sites.

Mayor Fitzgerald brought up another situation using himself as an example. He does not have curbing at his house, so his camper sits in the grass. He measured it and it is not actually on his property (it is technically on City property). So, he asked how that would be handled. Mr. Roberts responded that there are a lot of spaces that are on-street parking in the sense that they are part of the City right-of-way, but there's no curb and gutter so it's a little less clear where there might be grass or gravel. Mr. Roberts deferred to Chief Handley for that. Chief Handley asked if the camper was creating a site-line safety concern. Mayor Fitzgerald noted that he is planning on putting his camper in his yard, but there are a lot of places that don't have curb and gutter, so he was wondering if you can't park it there how

will we show where the City property is. Chief Handley stated that one way to address this would be to look at what the intent and spirit of this ordinance is, which is to create enough room in the streets to allow for vehicles to pass each other or people that are coming into intersections to not have to go out into the middle of an intersection to see around a large vehicle and that is really what this is about, we just want to make sure the language reflects that accurately. He said that if it is still on "City property" but it's not on the "street proper" so-to-speak, it would really be a judgment call. Vice-Mayor Hickman noted that the curbing would go a certain distance from the lot, so wherever the curbing would normally go should be the "cut-off". Mayor Fitzgerald agreed, saying that it would punish the people who own campers who have curbing, making it seem like those who don't have curbing are getting a free ride. Mr. Tyree added that the proposed language states that "if it is left standing on any street", so the area where there is no curb is technically a right-of-way and not a street. He offered that we can certainly add language to state, "any street AND/OR right-of-way", but currently the way he reads it is if it is in the right-of-way where we might have a utility, water, or sewer line, as long as it's not in the street, we wouldn't ticket it. Mayor Fitzgerald opined that it would cause problems this way.

Mr. Roberts stated that this is some helpful feedback on some areas that we will need to deal with and offered that we can come up with some changes to the language or a definite policy about how we would handle those situations.

NB #4: FIRST READING OF AN ORDINANCE TO AMEND THE FY23 BUDGET

Ms. Burch read the following proposed amendment:

BUDGET AMENDMENT ORDINANCE

WHEREAS on May 19, 2022, the City of Buena Vista adopted its budget for Fiscal Year 2023; and

WHEREAS the City Council approved certain ongoing projects and activities that required additional funds and usage of fund balances to be reappropriated during the fiscal year.

NOW, THEREFORE IT BE ORDAINED by the Council for the City of Buena Vista, Virginia, in accordance with Section 15.2-2507 of the 1950 Code of Virginia, as amended, that the Budget be amended to increase or modify the following line items by the amounts shown:

	Debit	Credit
Sheriff Vehicle	54,040	
PD Equipment	30,803	
PD Vehicles	317,972	
Federal Funds - PD ARPA Grant		317,972
Rescue Squad Allocation	25,000	
Regional Jail - Jail Fund Reserve	74,000	
Social Services Land Purchase	70,715	
To Be Provided - General Fund		144,715
Main Street Program	53,932	
Public Works Paving	250,285	
Sheriff SRO Grant		36,350
Sherrif SRO Officer	36,350	
Connect BV Grant Program	23,335	
Connect BV Grant		23,335
VBAF Mundet Grant Program	23,118	
VBAF Mundet Grant		23,118

Public Works Vehicles	119,179	
Public Works Equipment	152,114	
Water Department Leak Study	52,300	
Non-Profits Community Foundation	23,251	
Opioid Settlement Funding		23,251
Park Playground	106,675	
Playground Donations		31,500
To Be Provided - General Fund		5,175
Park Vehicles	39,750	
Park Electrical Upgrades	1,121,691	
Federal Funding - ARPA		1,969,094

ADJOURNMENT

There being no further business, the meeting was adjourned.

Sarah M. Burch, Clerk of Council

William H. Fitzgerald, Mayor