

MINUTES - DRAFT
CITY OF BUENA VISTA
PUBLIC SERVICE AUTHORITY & REGULAR COUNCIL MEETINGS
COUNCIL CHAMBERS
SEPTEMBER 21, 2023, 6:00 P.M.

The City Council for the City of Buena Vista met for a Public Service Authority and Regular Council Meeting on Thursday, September 21, 2023, at 6:00 p.m.

Council Members Present:

Tyson Cooper
Danny Staton

Mayor Bill Fitzgerald
Melvin Henson
Steve Webb

Members Absent:

Vice-Mayor Cheryl Hickman
Stanley Coffey

ADG #1: PLEDGE OF ALLEGIANCE AND PRAYER

Councilman Cooper delivered the opening prayer.

ADG #2: BUENA VISTA PUBLIC SERVICE AUTHORITY PUBLIC HEARING

The Buena Vista Public Service Authority hereby provides notice of its intent to file an application for funding with USDA, Rural Development for funding of a proposed purchase of a water system, which consists of the Public Service Authority purchasing the water system from the City of Buena Vista.

Mr. Kearney explained that we have had an opportunity come about very quickly to refinance two debts that we currently have with the water system; the Dickerson well financing and some USDA financing from 2004. Rob Wilson, the local USDA representative, contacted us and said that it is just about the end of the fiscal year for the federal government which ends in September, and if we wanted to apply, they may be able to slip us in to get us approved. This would lower the interest rate and the payment schedule for both debts dramatically. This then gives us room to look at financing for the sewer plant, because with that we don't know yet how much that is going to cost and how much we would need to finance. This refinancing gives us several hundred thousand dollars of room that we can use toward debt for the sewer plant without having to raise rates. Mr. Kearney reiterated that this came about very quickly, and it is very tentative. He noted that the current debt is about \$5.33M and we are asking to borrow about \$5.45M; that payoff amount is just tentative. Applying to borrow over that amount gives us a little wiggle room, but we don't have to take the full amount. If [USDA] have not approved this by the end of this month, we won't get it. He opined that if we can get this, it is a really good deal. He explained again that this will not take care of the sewer plant; DEQ is going to pay a bunch of the sewer plant costs and USDA is looking for grants for the sewer plant.

Mr. Tyree noted that this would free up about \$300K annually for other debt service in the future.

Mr. Kearney said that this would be able to help us immensely with the sewer plant without having to raise rates. The way this works is that USDA cannot technically "refinance" a debt, but they have agreed that the PSA (Council) can buy the assets of the IDA. By buying the assets, we are acquiring the water lines owned by the IDA. The IDA still owned water lines because the 2004 debt was done in the IDA's name. Because we say it is a "purchase" instead of a "refinance", this is something under the USDA regulations that is allowed. Mr. Kearney also noted that as of this afternoon, they are still going up the chain to see whether they can do this. We are concerned that they may not be able to do it because they were under the impression that the Dickerson well was owned by the IDA not the PSA; that was transferred to the PSA years ago, which they knew about because we told them when it happened. This whole thing may just disappear, but we are trying to slip it in right now because we know what the rates are, and we know we have the money. We have a resolution to facilitate obtaining the financing, the "Loan Resolution". We have a resolution authorizing Jason as Executive Director. We also have a small contract where you agree to the \$5.45M to buy the assets of the IDA. He also noted that this all subject to financing.

ADG #3: APPROVAL OF THE PSA AGENDA

Councilman Cooper moved to approve the agenda, seconded by Councilman Staton and carried by Council.

ADG #4: APPROVAL OF A RESOLUTION TO FACILITATE OBTAINING FINANCIAL ASSISTANCE FROM THE USDA, RURAL DEVELOPMENT (THE GOVERNMENT) IN THE DEVELOPMENT OF AN APPLICATION TO SERVE THE COMMUNITY

Councilman Cooper moved to approve the resolution, seconded by Councilman Webb.

Councilman Cooper read the following:

LOAN RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE BUENA VISTA PUBLIC SERVICE AUTHORITY AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS it is necessary for the Buena Vista Public Service Authority (hereinafter called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of Four Million Four Hundred Fifty Thousand & 00/100 pursuant to the provisions of the Code of Virginia; and

WHEREAS the Association intends to obtain assistance from the United States Department of Agriculture (hereinafter called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issue, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE, in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U.S.C. 1983 (c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement", and Form RD 400-1m "Equal Opportunity Agreement", including an "Equal Opportunity Clause", which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legally permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so, without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contractor agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal

- maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
 9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
 10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by the USDA. No free service or use of the facility will be permitted.
 11. To acquire and maintain such insurance and fidelity bond coverage as may be required by the Government.
 12. To establish and maintain such books and records relating to the operation of the facility and its financial affairs and to provide for required audit thereof as required by the Government, to provide the Government with a copy of each such audit without its request, and to forward to the Government such additional information and reports as it may from time to time require.
 13. To provide the Government at all reasonable times access to all books and records relating to the facility and access to the property of the system so that the Government may ascertain that the Association is complying with the provisions hereof and of the instruments incident to the making or insuring of the loan.
 14. That if the Government requires that a reserve account be established, disbursements from that account(s) may be used when necessary for payments due on the bond if sufficient funds are not otherwise available and prior approval of the Government is obtained. Also, with the prior approval of the Government, funds may be withdrawn and used for such things as emergency maintenance, extensions to facilities and replacement of short-lived assets.
 15. To provide adequate service to all persons within the service area who can feasibly and legally be served and to obtain USDA's concurrence prior to refusing new or adequate services to such persons. Upon failure to provide services which are feasible and legal, such person shall have a direct right of action against the Association or public body.
 16. To comply with the measures identified in the Government's environmental impact analysis for this facility for the purpose of avoiding or reducing the adverse environmental impacts of the facility's construction or operation.
 17. To accept a grant in an amount not to exceed "unlimited" under the terms offered by the Government; that Jason Tyree, Executive Director of the Association is hereby authorized and empowered to take all action necessary or appropriate in the execution of all written instruments as may be required in regard to or as evidence of such grant; and to operate the facility under the terms offered in said grant agreement(s).

The provisions hereof and the provisions of all instruments incident to the making or the insuring of the loan, unless otherwise specifically provided by the terms of such instrument, shall be binding upon the Association as long as the bonds are held or insured by the Government or assignee. The provisions of sections 6 through 17 hereof may be provided for in more specific detail in the bond resolution or ordinance; to the extent that the provisions contained in such bond resolution or ordinance should be found to be inconsistent with the provisions hereof, these provisions shall be construed as controlling between the Association and the Government or assignee.

The vote was: Yeas: 5 Nays: 0 Absent: 2

IN WITNESS WHEREOF the Buena Vista Public Service Authority has duly adopted this resolution and caused it to be executed by the officers below in duplicate on this 21st day of September 2023.

By: _____

Title: _____

Attest:

Title

Council carried the motion to approve the above read resolution.

ADG #5: RESOLUTION OF THE GOVERNING BODY OF THE CITY OF BUENA VISTA PUBLIC SERVICE AUTHORITY TO APPOINT JASON TYREE, AS EXECUTIVE DIRECTOR, TO SIGN ON BEHALF OF THE PSA

Councilman Cooper made a motion to approve the Resolution, seconded by Councilman Webb.

Ms. Burch read the following:

**RESOLUTION OF GOVERNING BODY OF
The City of Buena Vista Public Service Authority**

The Governing Body of the City of Buena Vista Public Service Authority, consisting of 7 members, in a duly called meeting held on the 21st day of September 2023, at which a quorum was present **RESOLVED** as follows:

BE IT HEREBY RESOLVED that in order to facilitate obtaining financial assistance from the United States of America, United States Department of Agriculture, Rural Development (the Government) in the development of an application to serve the community, the Governing Body does hereby adopt and abide by all covenants contained in the agreements, documents, and forms required by the Government to be executed.

BE IT FURTHER RESOLVED that Jason Tyree is appointed as Executive Director of the City of Buena Vista Public Service Authority and is authorized in his capacity as Executive Director to execute on behalf of the Service Authority the above-referenced agreements, documents, and forms and to execute such other documents including, but not limited to, debt instruments, security instruments, and/or grant agreements as may be required in obtaining the said financial assistance.

This Resolution is hereby entered into the permanent minutes of the meetings of this Board.

City of Buena Vista Public Service Authority

By: _____

Attest:

Signature & Title

CERTIFICATION

I hereby certify that the above Resolution was duly adopted by the Governing Body of the Buena Vista Public Service Authority in a duly assembled meeting on the 21st day of September 2023.

Secretary/Clerk

Council carried the motion to approve the above read resolution.

ADG #6: APPROVAL OF INTENT TO APPLY FOR FUNDING

On a motion made by Councilman Cooper, seconded by Councilman Staton, and carried by Council, the intent to apply for funding was approved.

ADG #7: APPROVE PURCHASE OF ASSETS FROM THE BUENA VISTA EDA

Councilman Cooper made a motion to approve the agreement, seconded by Councilman Webb.

Councilman Cooper read the following:

THIS AGREEMENT made and entered into this 21st day of September 2023, by and between **BUENA VISTA PUBLIC SERVICE AUTHORITY (“PSA”)** and the **BUENA VISTA ECONOMIC DEVELOPMENT AUTHORITY**, formerly known as the Buena Vista Industrial Development Authority (“EDA”).

WITNESSETH:

WHEREAS the EDA is the current owner of various water lines and facilities located within the City of Buena Vista; and

WHEREAS the City of Buena Vista now has a PSA and desires to consolidate all of the water assets within the PSA, to more efficiently monitor and upgrade the system for the benefit of the citizens of Buena Vista.

NOW THEREFORE for and in consideration of the purchase price contained herein and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged between the parties, the parties hereby agree as follows:

- 1) The PSA shall acquire all of the water lines and facilities owned by the EDA for the purchase price of Five Million Four Hundred Fifty Thousand Dollars (\$5,450,000) being the current payoff for the loans associated with the water system and all costs associated with the financing to purchase the assets including, but not limited to, bond counsel charges and attorney's fees.
- 2) The EDA shall convey the above assets, free and clear of any current liens on the property, by such documentation as is necessary including, but not limited to, Bills of Sale or Deeds as necessary.
- 3) This purchase shall occur upon a mutually agreed time between the parties, but no later than One Hundred Days (120) after financing has been obtained.
- 4) This Agreement shall be applied and interpreted in accordance with the laws of the Commonwealth of Virginia.
- 5) The undersigned parties have been authorized to execute this Agreement.

Witness the following signatures and seals:

BUENA VISTA PUBLIC SERVICE AUTHORITY

By: _____

Its: _____

Councilman Cooper asked for clarification of number 1 which says that this will purchase “all” assets; Mr. Kearney responded that it is only the water lines owned by the EDA.

Council carried the motion to approve the above-read agreement.

ADJOURNMENT

There being no further business, the PSA meeting was adjourned.

Mayor Fitzgerald opened the regular Council meeting.

ADG #8: APPROVAL OF THE REGULAR COUNCIL MEETING AGENDA

Councilman Cooper moved to approve the agenda, seconded by Councilman Webb and carried by Council.

ADG #9: APPROVAL OF MINUTES FROM THE SEPTEMBER 7, 2023, REGULAR COUNCIL MEETING AND PUBLIC HEARING

Councilman Cooper moved to approve the minutes, seconded by Councilman Staton and carried by Council.

ADG #10: 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.

No one spoke.

ADG #11: REPORTS

1. Mayor

Mayor Fitzgerald thanked Vice-Mayor Hickman for conducting the previous Council meeting. He noted that that was the first meeting he has ever missed, but he had to put a sewer line in at his house.

He then congratulated our previous Mayor, Larry Tolley, and his wife Brenda who have been married for 50 years as well as Mary and Phil Huffman who also celebrated 50 years of marriage recently.

2. City Manager

Mr. Tyree spoke about the passing of Mr. Ronnie Slough. He said that as most of you know, this week we lost a dear friend, partner, and leader. He noted that Mr. Slough had spent 53 years with the Buena Vista Rescue Squad, starting in 1970, and he also spent many years as President. Mr. Slough was also active at the state level with the Virginia Association of Volunteer Rescue Squads. He was inducted as a Life Member in 1994, served as President in 1995 and 1996, and was inducted into the Hall of Fame in 1997. In 1999 his service was honored in a joint resolution by the Virginia General Assembly honoring his lifetime commitment to serving Buena Vista and the Volunteer Rescue Squads statewide. Mr. Tyree then offered a brief moment of silence to reflect on the life and service of Mr. Slough. After the moment of silence, Mr. Tyree thanked Mr. Slough for his life of service.

3. City Attorney

None.

4. Council Committee/Representative

Councilman Henson noted that the park was packed with campers for the Nothin' Fancy event. He also mentioned that the RERC plan that Kristina Ramsey had presented at the last meeting along with all the work that has been done at the park over the last year was in the editorial in the newspaper this week.

ADG #12: CONSIDER APPOINTMENTS TO VARIOUS BOARDS, COMMISSIONS, AND COMMITTEES

PLANNING COMMISSION

Ms. Lucy Ferrebee's term on the Planning Commission expires on September 30, 2023. Ms. Ferrebee is not willing to serve again. This is a four-year term and the second time it has appeared on the agenda.

Applicants: Franklin Roberts and Sarah Henson

Councilman Cooper made a motion to appoint Sarah Henson to the Planning Commission. The motion was seconded by Councilman Henson and carried by Council.

OLD BUSINESS:

OB #1: SECOND READING OF AN ORDINANCE REPEALING A LOCAL FAIR HOUSING ORDINANCE WHICH IS SUPERSEDED BY STATE AND FEDERAL LAWS AND REGULATIONS

Tom Roberts stated that there have been no changes to the ordinance.

Councilman Henson moved to read by title only, seconded by Councilman Cooper, and carried by Council.

Councilman Cooper read the ordinance by title.

Councilman Henson made a motion to adopt the ordinance, seconded by Councilman Webb.

Ms. Burch completed a roll call vote of Council as follows:

Member	Present	Absent	Yes	No	Abstain
Councilman Henson	X		X		
Councilman Cooper	X		X		
Councilman Webb	X		X		
Councilman Staton	X		X		
Councilman Coffey		X			
Vice-Mayor Hickman		X			
Mayor Fitzgerald	X		X		

The approved ordinance is as follows:

**City Code Amendment
Ordinance Text
Chapter 20**

AN ORDINANCE to repeal Chapter 20 of the Code of the City of Buena Vista, as amended, for the purpose of repealing unnecessary Fair Housing regulations.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BUENA VISTA, VIRGINIA, that after a duly called public hearing, in accordance with the general welfare of the citizens of Buena Vista, Chapter 20 Human Relations of the Code of the City of Buena Vista is hereby repealed.

This ordinance shall be effective 30 days following adoption by City Council.

William H. Fitzgerald, Mayor

ATTEST:

Sarah M. Burch, Clerk of Council

Date

NEW BUSINESS:

NB #1: DIRECTOR OF PUBLIC WORKS, COREY HENSON, TO DELIVER PUBLIC WORKS UPDATE

Mr. Henson thanked the Police Department for the use of their signs to let the public know that they are doing line striping beginning tomorrow throughout the whole city. As of today, Chris Pooley said we are right at 100 tons of asphalt that they have put down this summer. This has been due to construction, curb and guttering, water and sewer leaks, and potholes. There are four guys on water/sewer crew that

have pulled quite a few all-nighters this summer. He said a big thank you to all of the guys: water and sewer crew, refuse, buildings and grounds, and the street department especially; there is a five-man crew keeping up with all streets in the city. He noted that Columbia gas has been awarded money to dig up more of our streets this fall and into the winter. This will mainly be around the 13th and 14th street area which they were planning on paving but will hold off on that for now. They have received a lot of quotes for the City building's roof repair.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Sarah M. Burch, Clerk of Council

William H. Fitzgerald, Mayor