

**CITY OF BUENA VISTA
REGULAR COUNCIL MEETING
AND EXECUTIVE SESSION
NOVEMBER 19, 2020
(VIRTUAL)**

The City Council for the City of Buena Vista met for a Regular (Virtual) Council meeting and Executive Session on Thursday, November 19, 2020 at 6:00 p.m.

Council Members Present:
Melvin Henson
Stanley Coffey
Tyson Cooper

Mayor Bill Fitzgerald
Danny Staton
Cheryl Hickman
Vice-Mayor Lisa Clark

Members Absent: None.

ADG #1 PLEDGE OF ALLEGIANCE AND PRAYER:

Councilman Coffey delivered the opening prayer.

ADG #2 APPROVAL OF THE AGENDA:

Motion was made by Councilman Cooper to approve the agenda, seconded by Councilman Staton, carried by Council.

ADG #3 APPROVAL OF THE MINUTES FROM THE REGULAR COUNCIL MEETING (VIRTUAL) HELD ON NOVEMBER 5, 2020 AND THE MINUTES FROM THE EXECUTIVE SESSION (VIRTUAL) HELD ON NOVEMBER 12, 2020:

Motion was made by Councilman Cooper to approve the minutes from the Regular Council meeting (Virtual) held on November 5, 2020, seconded by Councilman Coffey, carried by Council. Motion was made by Councilman Henson to approve the minutes from the Executive Session (Virtual) held on November 12, 2020, seconded by Councilman Cooper, carried by Council.

ADG #4 RECOGNITION/COMMUNICATION FROM VISITORS:

Citizens who desire to speak on matters not listed on the agenda below will be heard at this time. Citizens who desire to speak on a specific item listed on the agenda, open for public comment, will be heard when that item is considered:

No one spoke.

ADG #5 REPORTS:

1.) Mayor:

None.

2.) City Manager:

Mr. Scudder started his report by saying people have been thanking him for the paving in the City. He said that staff and Council worked hard to get the paving done. He thanked everyone for getting this accomplished. The last street will be Walnut and that will be done this week. Mr. Scudder said this a big feather in our cap for getting this done this year. He also wanted to thank Charles, Brian Kearney and Robinson, Farmer Cox for getting the \$30,000.00 grant for professional engineering series for the WWTP to the USDA yesterday. The professional engineering study must be done before we can go forward at the WWTP.

Councilman Coffey said he has not finished reading it but has read about all the different types of systems that are probable there. That is something that the people at the WWTP are going to have to discuss what it curtails. This does not include the secondaries: they are only 10 feet and they must be 12 feet. He opined that what he has read so far, they have done an excellent job.

Mr. Scudder added that was because of all the comprehensive discussions they have had. He said they have it broken down into different sections so we can pick and choose what we want done. The total cost of the study is \$125,000.00. We will get the \$30,000.00 grant so that will leave about \$95,000.00. This will include everything. One question that he had was if the engineering be added on to other financing and the answer is yes.

Councilman Coffey said some of the grants will almost pay for the projects that we do. There are several grants available. He asked Mr. Scudder if some of the grants are through DEQ.

Councilman Henson stated that the WWTP is outdated and we do not have much of a choice but to look at the future.

Mr. Scudder said that part of the PE study is getting grant money and some of the grants are through DEQ. He asked Mr. Kearney to discuss moving forward.

Mr. Kearney said if we are going to get any USDA money, the engineering must be done. We must go to USDA with a specific plan. Engineering must be done first before we can get any grant money.

Mr. Scudder asked for permission to proceed with the project, Council gave Mr. Scudder the thumbs up to proceed.

3.) City Attorney:

None.

4.) Council Committee/Representative:

Councilman Cooper reminded Council that Mr. Scudder gave Council permission to start putting together our Strategic Plan. Tom Roberts and Jay Scudder have been working on the Plan. He said hopefully after Christmas Council can take some steps forward on the Plan.

Vice-Mayor Clark said it was nice driving up Culvert Street today with the new paving.

Councilman Coffey advised there was a Parks/Recreation meeting that went very well. He said he wanted to thank the people that are on the committee and said they are doing a tremendous job. They are making headway for things in the park and other areas going into the future. He again thanked them for their dedication.

Council Member Hickman opined that it was a great meeting. She said they talked about a lot of things that can be done at the park (low cost things) to make the park more user friendly. She said she will provide more updates as they go. They have picked 3 things they will be working on now.

Councilman Coffey stated that he would like to see everybody involved in the things they are talking about. He would like for everyone to be on board and know what they are talking about. He said he understands that sometimes you cannot get to the meeting but they can send out information so everyone will know what is going on,

Councilman Hickman opined that the more they get into it they can include everyone so they can see what is going on.

Vice-Mayor Clark suggested that someone take notes and forward them to Council.

Council Member Hickman said that in the future they will keep everyone updated. She said their meeting was 2 hours long and all the things they discussed were important.

Councilman Henson added that some of the things they are looking at include fund raising. He advised that the Horses Christmas that was scheduled for December 3 at Kling has been cancelled due to COVID. We will have a reverse Christmas Parade on December 3 and there will be a modified Christmas in the park on December 12. We will not be using the Paxton House this year.

ADJ #6 CONSIDER APPOINTMENTS TO VARIOUS BOARDS, COMMISSIONS, AND COMMITTEES:

1.)THE ROCKBRIDGE AREA COMMUNITY SERVICES BOARD:
MS. JANET JOLLY'S TERM WILL EXPIRE ON DECEMBER 31, 2020. THIS IS A 2 YEAR TERM AND THE SECOND TIME IT HAS APPEARED ON THE AGENDA. MS. JOLLY IS NOT WILLING TO SERVE AGAIN. ADVERTISED OCTOBER 21, 2020 THE NEWS GAZETTE: WEB SITE AND CHANNEL 18 OCTOBER 14, 2020 – **NO APPLICANTS**

Council Member Hickman wanted to know if a Council member could serve on this board.

Mr. Kearney said he would check and let her know.

This item will be carried over to the next scheduled Council meeting.

2.)THE ROCKBRIDGE DISABILITY SERVICES BOARD:
MS. PAM ROBEY'S TERM WILL EXPIRE ON DECEMBER 31, 2020. THIS IS A 4 YEAR TERM AND THE SECOND TIME IT HAS APPEARED ON THE AGENDA. MS. ROBEY IS NOT WILLING TO SERVE AGAIN. ADVERTISED OCTOBER 21, 2020 THE NEWS GAZETTE: WEB SITE AND CHANNEL 18 OCTOBER 14, 2020 – **NO APPLICANTS**

This item will be carried over to the next scheduled Council meeting.

3.)THE PLANNING COMMISSION:
MR. PRES MANUAL'S TERM WILL EXPIRE ON DECEMBER 31, 2020. THIS IS A 4 YEAR TERM AND THE SECOND TIME IT HAS APPEARED ON THE AGENDA. MR. MANUAL IS NOT WILLING TO SERVE AGAIN. ADVERTISED OCTOBER 21, 2020 THE NEWS GAZETTE: WEB SITE AND CHANNEL 18 OCTOBER 14, 2020 – **NO APPLICANTS**

This item will be carried over to the next scheduled Council meeting.

4.)THE BUENA VISTA ECONOMIC DEVELOPMENT AUTHORITY:
MR. LEON BARKER HAS RESIGNED FROM THE BUENA VISTA ECONOMIC DEVELOPMENT AUTHORITY. THIS IS A 4 YEAR TERM AND THE FIRST TIME IT HAS APPEARED ON THE

AGENDA. ADVERTISED NOVEMBER 18, 2020 THE NEWS GAZETTE: WEB SITE AND CHANNEL 18 NOVEMBER 12, 2020 - NO APPLICANTS

This will be carried over to the next Council meeting.

OLD BUSINESS:

OB#1

SECOND READING OF AN ORDINANCE TO AMEND THE 2019-2020 BUDGET:

Motion was made by Councilman Cooper to read the Ordinance by title only, seconded by Councilman Henson

Ms. Wheeler read the following Ordinance by title only.

ORDINANCE – ORD 20-16

BUDGET AMENDMENT ORDINANCE

WHEREAS, on May 16, 2019 the City of Buena Vista adopted its budget for Fiscal Year 2020; 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 current fiscal year.

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

	Debit	Credit
Building and Grounds- COVID 19 Supplies	10,391	
Finance Department- IT Costs	43,618	
Industrial Park	235,652	
Regional Jail- Inmates/Costs & COVID 19	184,246	
Social Services- GSA	561,758	
Federal Funds- CARES		172,432
State Funds- CSA Reimbursement		432,554
Industrial Park- Reimbursement		140,300
Transfer Unappropriated General Fund		290,379

William H. Fitzgerald, Mayor

ATTEST:

Clerk of Council

Date of Adoption

Vice-Mayor Clark polled Council as follows:

	Present	Absent	Yes	No	Abstain
Mayor Fitzgerald	X		X		
Melvin Henson	X		X		
Tyson Cooper	X		X		
Cheryl Hickman	X		X		
Vice-Mayor Lisa Clark	X		X		
Danny Staton	X		X		
Stanley Coffey	X		X		

OB #2 DISCUSS THE SALE OF SURPLUS CITY PROPERTY:

Mr. Tom Roberts shared the following memorandum:

MEMORANDUM

TO: City Council
FROM: Tom Roberts
DATE: 17 November 2020
SUBJ: Surplus City Land and City Parks

34th Street Park

In previous memos I covered the importance of parks and the strategic location of this park on the north side of the City. Since our last meeting I contacted Buena Vista realtors to ask about potential sale price and other feedback. The responses included the following. None of the realtors supported selling the parks.

I would not want to be the builder or homeowner that destroyed a children's playground.

Lots will sell for only a few thousand each. Several lots for sale in city now for \$5000 to \$24000. Some have been on market three years or more. I sold two lots together on 39th

Street last year for \$8000 total. They had been on market 674 days before selling.

I don't think you will make enough from them to make it worth.

Most of all, there are acres of other entirely unused real estate the City could sell before selling any parks. It seems logical to exhaust all other surplus real estate before the City sells community facilities which are currently in use by residents.

Surplus Real Estate

Currently, we have a selection of buildable surplus properties listed and mapped on the City website (posted about a month ago). I have had a couple discussions with potential interested developers but nothing concrete.

In addition to buildable sites, there are multiple un-buildable "scraps" of land which could be added to adjacent property. I propose contacting adjacent landowners by letter and offering the properties to them. The table below shows these ten properties. Three I recommend offering to transfer to the adjacent owner at no cost because they have so little actual value. The other seven would enhance the value of the adjacent properties and so I recommend offering to sell at the assessed values. Seven of the properties are in residential areas and the remaining are institutional, commercial, and industrial; one is in the County next to our soccer field.

- Total assessed value of all parcels: \$30,800
- Assessed value recommended to sell: \$28,100
- Aggregate annual tax revenue: \$360

With Council's approval he will send letters out to adjacent property owners. If they are interested, staff would perform necessary due diligence such as a title check and preparing a deed, then bring the property to a public hearing before Council. All sales or transfers are subject to final approval.

Council Member Hickman wanted to know if we transferred the small pieces of land to the adjacent property owners, would the land become taxable?

Councilman Coffey wanted to know the formula to assess the value of the excess land?

Mr. Roberts advised that we already have assessed values for these properties. There is not a formula because these parcels have been assessed from the assessment and are being taxed.

Council Member Hickman opined if we are going to keep the parks they need to be maintained. They are not being maintained and they are a liability to the City. Vice-Mayor Clark suggested they look at some of the guidelines we have for public spaces.

Council Member Hickman said if someone gets hurt the City will be liable.

Councilman Cooper wanted to know if these parks would fall in the same category as it is for someone walking down our streets.

Mr. Kearney said there are some immunity for governmental actions, but it all depends on what kind of notice the City has been put on. He said if the City has a piece of equipment that is not functioning as it should and they have known about it for 3 or 4 months and have not taken any action, the City would be held liable.

Vice-Mayor Clark wanted to know if Council needed to act on this item tonight or was it just for discussion.

Mr. Kearney said if Council wants to give Mr. Roberts permission to contact the adjacent property owners, then action will need to be taken.

Councilman Henson wanted to know if there is a roadway on the piece of land off Rockbridge Avenue.

Mr. Roberts advised that as far as he can tell the property does not have a roadway. The one that is perpendicular to 31st Street and almost perpendicular to Rockbridge Avenue. He said that this piece of land is not an alleyway. If it were it would be shown in the original plat. Mr. Roberts said he would double check this one by going back and reviewing the deed and he will also check with Brian Kearney. Based on his research so far, there is not anything with these pieces of land to keep.

Councilman Henson advised that on Long Hollow Road there is a road that separates a parcel of land. Right now, the property owners are taking care of each side. He wanted to know if the property owners decide not to buy the strips of land, who is going to maintain them if the property owner no longer does it.

Mr. Roberts said property is located at 505 Long Hollow Road and 133 West 38th Street and he assumes the property owners maintain the land now. He said he could write a letter to the property owners. They already mow and use the areas

and they might say “why would I want to buy the property and have to pay taxes on it”? If it is added to their property it will add value to the property if they would want to sale it. He said this property is one that the City could sale at the assessed value. We can also just transfer the property or negotiate a price at the assessed value. The benefit to the City will be we capture tax revenue from the land.

Mr. Kearney said we must be very careful about that. We could also sale the pieces of property and he thinks the property owners would not want someone right next to them.

Mr. Roberts said he will draft the letters and see what kind of response we get in the next few weeks.

Mr. Kearney advised that all the sales will be subject to Council approval. Council is not bound at this point.

Mr. Roberts said the last one on the list is the property by the soccer field. The property is in the County so we would offer the land to the property owner that is right beside of the soccer field. There is a narrow strip around the property owned by the City. He is not on City land.

Mr. Scudder stated that he has sent the property owner letters asking if he would be interested in purchasing the land and he has not replied.

NEW BUSINESS:

NB #1 PROCLAMATION FOR MR. LARRY “MOOSE” FLOYD:

Vice-Mayor Clark read the following:

PROCLAMATION

WHEREAS, MR. LARRY “MOOSE” FLOYD has faithfully served the youth of the City of Buena Vista for many, many years by volunteering to coach football for the City and then coaching football for RARO; and

WHEREAS, “MOOSE” has enriched the lives of many of the children and their parents by teaching them sportsman ship, fundamentals of playing football and being an all-around good citizen; and

WHEREAS, the City of Buena Vista is extremely grateful to **“MOOSE”** for his dedication in not only serving the City of Buena Vista in this capacity but also his valuable input to the Boards and Committees he

has served on.

NOW, THEREFORE BE IT PROCLAIMED, on this date, November 19, 2020, by the Mayor, the Buena Vista City Council and the citizens of the City of Buena Vista that Mr. Floyd be honored for his years of service.

**William H. Fitzgerald, Mayor
The City of Buena Vista**

Mr. Scudder said he would deliver the Proclamation to Mr. Floyd.

OB #3 DISCUSS ACQUISITION OF TOWN SQUARE PROPERTY:

Mr. Roberts stated that Council talked about the Town Square at the last Council meeting. Ed Walker felt strongly about assurances that the town square property would be for public use to benefit downtown redevelopment. Brian Kearney proposed a letter of agreement, separate from the property deed, to address this. Mr. Walker's attorney agreed to Mr. Kearney's language. Below are the key points of this letter of agreement:

- Separate from the property deed so not recorded in the Circuit Court
- Gives Mr. Walker the opportunity to purchase the property if the City decides to sell in the next 5 years
- Mr. Walker's purchase price would be the remaining principal balance on the seller financing plus any amount the EDA has paid to him at that point.
- Everything in the letter expires either when we obtain a grant for acquisition/development as a park; or after 5 years
- If we break the agreement, Mr. Walker can sue us, but damages are limited to the profit we make off selling the property.

Council has already agreed on the other terms of the purchase, so if you approve this letter agreement, we will instruct the EDA to purchase the property.

The specific language, agreed to by the attorney, about the terms of this letter:

The Buena Vista EDA (the "EDA") will enter into a letter agreement with the seller at closing that acknowledges that the intent of the transaction is to preserve the Town Square to the open and direct beneficial use of the

general public and provides that in the event the EDA elects to sell the property to a third party within five years of closing and the purchaser does not intend to keep the parcel open and available for the dedicated use of the public, it shall first offer the seller the opportunity to purchase the property for the remaining principal balance of the seller financing and all amounts paid to the seller under said financing.

The parties acknowledge and agree that this letter agreement does not and will not attach to the land being conveyed to the EDA and shall not be put of record in the Clerk's office of the Circuit Court for the City of Buena Vista. This agreement shall at all times be subordinate to and have no legal effect on any encumbrances placed on the property by the EDA and that if the EDA acquires a grant that places limitations on the future use of the property or at the end of five years from the date of this agreement, whichever occurs first, this letter agreement shall immediately terminate and be of no further force or effect.

Seller agrees that if this agreement is breached its sole remedy would be limited to an action for the disgorgement of any profit the EDA received upon the sale of the property. For the purpose of this agreement, profit shall be defined as the amount the EDA received in excess of the option price outlined above.

Vice-Mayor Clark asked Mr. Roberts to go over bullet by bullet of the terms again.

Mr. Roberts explained this is a letter that we signed: it is separate from the property deed, so it is not a deed restriction. It is not recorded in Circuit Court. The letter is not attached to the property itself that might interfere with what the City does with the property. If the City sales the property to a private party within the next 5 years, then Mr. Walker has the option to purchase the property. If Mr. Walker decided to buy the property, the purchase price would be the remaining principal on the seller financing plus everything we have paid. So basically \$75,000.00 plus whatever interest we have paid to that date. Mr. Walker has the option to purchase the property but not an obligation to purchase it. The letter will expire in 5 years or when we obtain a grant for the acquisition or development of the property.

Vice-Mayor Clark wanted to know how much of a grant we are applying for and what is the most we will get from a grant.

Mr. Roberts advised that the particular application they are working on now is the Land Conservation Grant that would pay for 50% of the acquisition cost: 50% of \$75,000.00 is \$37,500.00. We may be able to add a little bit of the processing cost so it may be between \$37,000.00 to \$40,000.00. There is another grant we will be applying for in December that we could acquire 100% of the cost of acquisition. We can also apply for some development funds. He opined we can apply for grants in the amount of \$75,000.00 to \$100,000.00. He and Kristina will be working on coming up with some costs for a pavilion or some other structured

development. He opined that we have a 90% chance of getting one or both grants or some combination of the two.

Councilman Coffey wanted to know if we would receive the grants this year or in 5 years.

Mr. Roberts said in this cycle. They have not said the exact date they will announce the awards. If the grants are due on November 30 and December 18, we should hear back in March or April.

Vice-Mayor Clark wanted to know the purchase date for the property.

Mr. Roberts said the EDA will purchase the property as soon as we have the deed drafted. The next step after tonight will be the EDA will meet tomorrow night and authorize their Chairperson to sign the deed.

Mr. Kearney said the purchase should be complete within the next 30 to 60 days.

Vice-Mayor Clark wanted to know when the first payment would be due if the purchase is made in mid-December.

Mr. Kearney stated the first payment would be due in January.

Vice-Mayor Clark said we may not get grant money until April so what plan do we have? We must pay for the property until the grant money is received.

Mr. Roberts said the funds will come from the Economic Development budget. The monthly payments will be \$536.00 per month. We have a little over \$14,000.00 in the Economic Development line item.

Councilman Henson asked Mr. Roberts to check and see if we can put a community Christmas tree on the property since we do not own it and are in the process of buying it.

Mr. Roberts said he would talk to Mr. Walker and find out.

Mr. Kearney read the following Resolution:

RESOLUTION - R20-09
RESOLUTION FOR THE BUENA VISTA ECONOMIC
DEVELOPMENT AUTHORITY TO PURCHASE THE “TOWN
SQUARE”

BE IT RESOLVED, by the Council for the City of Buena Vista that

they request the Buena Vista Economic Development Authority acquire

the “Town Square” property from Mr. Walker for \$75,000.00, 100% seller

financing with interest at 3.5% amortized over 15 years with a 5-year

balloon and in accordance with the terms and conditions outlined in the

memorandum from Tom Roberts

Dated 11/16/20.

William H. Fitzgerald, Mayor

ATTEST:

Dawn M. Wheeler, Clerk of Council

Motion was made by Councilman Coffey to adopt the above Resolution, seconded by Council Member Hickman, carried by Council.

EXECUTIVE SESSION:

Vice-Mayor Clark read the following:

- 1.) ACCORDING TO SECTION 2.2-3711 (A) (1) OF THE 1950 CODE OF VIRGINIA, AS AMENDED, FOR THE PURPOSE OF INTERVIEWING PROSPECTIVE CANDIDATES FOR CITY MANAGER:**

There being no further business, Councilman Coffey motioned to go into executive session, seconded by Councilman Cooper, carried by Council.

CERTIFICATION OF EXECUTIVE MEETING

MOTION: Councilman Coffey
SECOND: Councilman Cooper

DATE: November 19, 2020

WHEREAS, the Buena Vista City Council has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.1-344.1 of the Code of Virginia requires a certification by the Buena Vista City Council that such executive meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, that the Buena Vista City Council hereby certifies that to the best of each member's knowledge (1) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the executive meeting to which this certification resolution applies, and (2) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Buena Vista City Council.

VOTE: AYES: ALL

NAYS: NONE

ABSENT DURING VOTE: None

ABSENT DURING MEETING: None

Dawn M. Wheeler
Clerk of Council

REGULAR SESSION: Vice-Mayor Clark moved to return to regular session, seconded by Council Member Hickman, carried by Council.

Mayor Fitzgerald
Mr. Cooper

Ms. Hickman
Mr. Coffey

Mr. Staton
Vice-Mayor Clark

Mr. Henson

ADJOURNMENT – There being no further business the meeting was adjourned.

Dawn M. Wheeler
Clerk of Council

William H. Fitzgerald
Mayor