

**CITY OF BUENA VISTA
PUBLIC HEARING AND, REGULAR
COUNCIL MEETING
COUNCIL CHAMBERS
JULY 1, 2021 – 6:00 P.M.**

ADG #1: PLEDGE OF ALLEGIANCE AND PRAYER:

Councilman Cooper delivered the opening prayer.

ADG #2

Mayor Fitzgerald read the following:

**PUBLIC HEARING #1
CITY COUNCIL
JULY 1, 2021**

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

- 1.) Request for Abandonment of Public Right of Way by Michael Martin for a portion of the alleyway between 24th Street and 25th Street and Hawthorne Avenue and Ash Avenue:
- 2.) Zoning Text Amendment, Section 802, Zoning and building permit procedures, to conform conditional use permit regulations to state code by repealing expiration on ownership change; to rephrase criteria for evaluation of conditional use permits; to extend the period to initiate a conditional use; and to clarify terminology:
- 3.) Zoning Text Amendment creating Section 507, Frontage and Private Streets to clarify street frontage requirements for new development, private streets, and street design standards:

The Public Hearing will be held in person in Council Chambers, City Hall, 2039 Sycamore Ave., Buena Vista, VA 24416. The meeting begins at 6:00 PM on Thursday, July 1st, 2021. Staff reports for each matter, and a copy of the Comprehensive Plan, are available from the Director of Community and Economic Development, Thomas Roberts, 2039 Sycamore Avenue, Buena Vista VA 24416 or (540) 261-8607 or troberts@bvcity.org or buenavistava.org/planning. Avenue, Buena Vista VA 24416 or (540) 261-8607 or troberts@bvcity.org or buenavistava.org/planning.

- 1.) Mr. Tom Roberts started the discussion by saying the first item for the public hearing is abandonment of a right of way and abandonment of a portion of in Block 52, section 4. That is the eastern end of 24th Street; between 24th Street and 25th Street and between Ash Avenue and Hickory Avenue. It is right up by the National Forest. The alley is undeveloped. The applicant owns the property on both sides of the alley, and he is seeking to build a house up there. The Planning Commission has looked at this and one of their concerns was whether there was going to be any storm water runoff impacts from clearing the land for his house. Mr. Roberts looked at the site with the engineer that we work with. They are not really concerned. The engineer feels that with the clearing it will not produce much more quantities or velocity of run off. There is still a forest buffer between the house site and everything else. They did discuss some items for storm water management. (They are in the staff report, and they are part of exhibit A of the Ordinance) With the Ordinance we are requiring the applicant to complete the stormwater requirements within 18 months. Mr. Roberts has discussed all the concerns with the applicant, and he is fine with them. It basically is just a partial alleyway

abandonment. He said a lot of the stormwater requirements are not on the applicant's property. They are improvements to the ditches on Ash Avenue and 24th Street and a little bit on the alleyway west of him. He did speak with adjacent property owners. He spoke with David Dickinson who owns the rest of the block with exception of a couple of lots. Mr. Dickinson does not have any issues with Michael Martin vacating the alley and he is going to bring forth a request to vacate the alley through his property. Mr. Roberts said in the Ordinance we are not retaining a utility easement like we use to do. There are no utilities there now and he cannot see where we would ever put utilities there.

Councilman Coffey wanted to know if Mr. Martin was being charged for the land. Mr. Roberts said he will pay \$870.00. That is calculated with the same formula we have been using.

Vice-Mayor Hickman wanted to know how much land Mr. Martin will be obtaining. Mr. Roberts said he will be getting 200 feet of alleyway and 50 feet wide.

Councilman Henson wanted to know if he owns the property on the corner of 24th Street also.

Mr. Roberts said he owns the southern part of the block.

Councilman Henson said if he would decide to sell the lots, we would have to re-open the alley.

Mr. Roberts said because he wants to put the house where the alley is, as part of the Zoning Permit, he will vacate all the internal lot lines which will be a single lot line so we could not open the alleyway again.

- 2.) Mr. Roberts said this is basically just some cleanup. It started because it came to his attention that there was a provision in our procedures for a conditional use permit that they expired on exchange of ownership of the property. We realized this is not legal in the State of Virginia. That prompted him to look at the procedures for the process of conditional use permits. He found a few other miscellaneous items that we could clean up. Those items are in the staff report. One is to clean up the language about zoning and building permits so there is no confusion about building permit processes and the zoning permit processes. They both have their own section. A building permit and zoning permit must be posted while working on the property. You must use a code when you consider a Conditional Use Permit. We must consider if the roads are good enough to provide first aid and fire department to the property. We have extended the length of time for a Conditional Use Permit from 6 months to a year. This gives people more flexibility. These changes do not have a big impact but does clean up some of the language in the ordinances.
- 3.) Section 507 – Frontage and private streets. This subject has come to Council before. They have been working on this for a couple of years. The last time it came before Council there were still changes that he felt like they needed to make. He took it back to the Planning Commission for review and they approved it. This is codifying some of the existing policies that we already have. It also clarifies what is in a zoning ordinance as far as streets and frontage requirements. This clarifies requirements for developed public street frontage for new construction. This means if you want to build something you need to have a road that can get to the property. It allows private streets in certain circumstances, and it establishes construction standards for those private streets. It creates a process to apply for a minimum frontage requirement. There are already frontage requirements in the dimensional requirements in zoning codes. This possibly could reduce that with the use of a Conditional Use Permit. The update does not really change any kind of policies in the Ordinance. It just goes into details and covering things we have not covered in the past. The issue that this Ordinance is trying to address is people with lots that are on undeveloped public streets right of ways. Technically if a street was platted a hundred years ago but has not been built. People want to know if they can build on their property on plats that have not been built. The issue is it does not benefit the City if we have substandard, privately built with gravel driveways running all over City property. He opined we need to have quality infrastructure so when we do have a new development, we need to have quality roads built to high standards, so we are not regretting having quality infrastructure. We also need to have quality so we can get VDOT mile money payment. Mayor Fitzgerald opined we would want the contractors to put the road in and if so, it would not be beneficial to the contractor. If the contractor builds the

infrastructure, he will spend more money than what he will make. That would kill all the construction on the land.

Mr. Roberts wanted to know what the Mayor would propose rather than have the contractor build the road.

Mayor Fitzgerald opined that they really should look at proposal because the way we want it to be done, we will not get a developer to build any houses. They work to make money and they will go in the hole if they must put all the infrastructure in. Councilman Webb said that in the County, if you buy a large amount of property to put a sub-division in, the developer must pay the fees for the infrastructure.

Mayor Fitzgerald said if you buy a large amount of property and put a sub-division in, you can make money from that. You cannot make money like that on a City lot. Councilman Webb opined that the City does not have the money to go up there and construct new streets.

Mayor Fitzgerald said if we leave the land as it is, no contractor will want to develop the land.

Councilman Webb said in the report from Mr. Roberts that if a developer fails, the City will have to take it over. It also says the City may collect from the applicant any cost that is more than the amount of security held. He opined it should say the City will or the City shall. If we say the City may, that leaves it for a vote. If a developer goes up there and creates something, the City should be able to get their money back.

Mayor Fitzgerald opined if we leave it the way it is, no more of the City lots will be sold. He said he understands the point on the other side of it. He opined that before Council considers this, they need to develop suggestions or bring in some contractors to talk about this plan. He opined if the developer must put in all the infrastructure, no more land will be developed. All the land is at the very back. He said we need to look at other options. If the land is not reasonable to build on, the land is worthless.

Mr. Kearney wanted to know if there would be a problem if one or two units were built with a private road.

Mr. Roberts said if it is 1 or 2 units there are no standards. The houses could be built to any standard. One response that he has heard is that it is very difficult to build houses in Buena Vista. New roads are not being built right now. By laying out a policy and regulations relating to private streets, it creates a new option that we do not really have right now. Private streets are not mentioned in the draft or the code at all right now. This lays out private streets as an option and under what circumstances. He opined one of the most important things is prohibiting private streets in the public right of way. If you are going to have a private street, we need for emergency vehicles to be able to use the street. If an emergency vehicle can cross that private street, he does not really care what standard that street is because they will maintain it. If it is anything the City owns, it will be high quality. He said we are not coming back in 20 years and ask why we built 36th Street the way it was built.

Mayor Fitzgerald said it is nothing he can think of that this should affect here in Buena Vista.

Councilman Cooper wanted to know what would happen if the driveway were partially on City property. Can we say that the city needs to maintain and allow people to build a substandard road?

Mr. Kearney said you would have to vacate a private street.

Councilman Cooper wanted to know what can be done on City property.

Mr. Kearney said we would need to build so all vehicles can get in there. The cost must be bonded to the city.

Councilman Coffey said if you buy the land and build houses on a private road, it can only support 2 houses.

Councilman Henson advised there are 5 empty lots on Spruce Avenue, owned by 3 different people.

Mr. Kearney said users of the road must upgrade the road. It will allow flexibility on a home or 2. With a 3rd home, the road would have to become a private road.

Mr. Roberts said if they are talking about some location that has multiple lots it is unlikely, we would vacate a public street. In order for one to build a private road the other property owner on that street must agree. The private street is a larger chunk of land. If someone owns all the lots in the block, we can vacate all those

lots and re-subdivide the land. He has talked to some people that have ideas for development of different places. This would help guide development.
Mayor Fitzgerald closed the Public Hearing.

ADG #3 APPROVAL OF THE AGENDA:

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

ADG #4 MINUTES WILL BE DELAYED UNTIL NEXT MEETING

ADG #5 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.

Ms. Cordelia Derr, 1353 Birch Avenue is an employee of the City of Buena Vista and a resident of Buena Vista. She said she was speaking tonight as a citizen of Buena Vista. And she said she was here tonight to speak about taxes. She understands that it is City Council's responsibility to make decisions for the citizens of Buena Vista. She also said she understands that it is Council's decision to set the tax rates. However, sometimes when you do not hear from the citizens, you lose contact with what their best interests are. She read in the newspaper about the cigarette tax being taken off the table at last month's Council meeting. She is concerned that Council decided to move on the tax without public input. Ms. Derr said that before Council sets any tax, they should always have public opinion on the tax. She said she strongly urged Council to reconsider their previous vote and allow Buena Vista's citizens to express their concerns to you regarding that specific tax.

Mr. Kearney said that this subject was just a preliminary discussion to see if Council wanted to proceed with the tax. Council did not want to proceed with the tax.

Councilman Coffey advised that the City had the cigarette tax before and it did not work. It is another tax on a sector of people and he is not for that. He said he did not like it when he smoked 25 years ago. He said that either Lexington or the County did not have the tax so Buena Vista people would go to Lexington or the County to purchase cigarettes. If Lexington and the County want to charge the tax, Buena Vista will probably make more money selling cigarettes than charging the tax. He opined we do not need another tax. He has talked to a lot of people that smoke and they are the ones that will have to pay the tax. He said again that he does not agree with the tax and does not know what to do to re-visit the issue.

Vice-Mayor Hickman asked Ms. Derr what her reason was for feeling the way she does about the tax.

Ms. Derr said she feels that anything that affects the amount of taxes a citizen must pay should have a public hearing before it is voted on. She said it is not about the cigarette tax. It is about taxes in general that the citizens must pay.

Vice-Mayor Hickman said we normally do have a public hearing concerning anything that Council must vote on. They did not vote on this tax so there was no need for a public hearing.

ADG #6 REPORTS:

1.) Mayor:

None.

2.) City Manager:

Mr. Tyree started his report by advising that our hazard litigation plan has been approved. We are now eligible for hazard litigation assistant grant programs. These grant programs can be used for qualified litigation planning and projects that work to reduce disaster losses and to protect life and property from future natural disaster events. He thanked Chief Hartman, Assistant Chief Miller and Tom Roberts who did work on getting this done. Waylon took on the brunt of the workload to get this done. The City of Buena Vista has been offered a grant in the amount of \$1,000,000.00 in support of downtown revitalization projects.

It was a competitive round, and we were awarded the full \$1,000,000.00. He opined that is great news for downtown revitalization. Mr. Tyree said we are super excited about the grant and thanks to Tom Roberts, Kristina Ramsey, and the Central Shenandoah Planning District Commission for all their effort put into getting this grant. The Governor's announcement will be coming out very soon. He said that Mr. Kearney helped him on the Public Works Director job description. That has been sent out internally to see if we have any good internal candidates. We will do an interview process if anyone does apply. Our goal is to hire from within and if we do not have a good candidate for the position, we will look outside.

3.) City Attorney:

Mr. Kearney advised that he had talked with Ed Walker's attorney last week about closing on town square. We should close on Town Square in the next week to 10 days.

4.) Council Committee/Representative:

Councilman Henson started his report by talking about the flags downtown and on the 10th Street bridge. He opined that you cannot go to Lowe's or Wal Mart and buy a flag because it will not resist the wind like the ones we need do. The flags must have a certain wind resistance and they are not offered at Lowe's or Wal Mart. The flags must have a wind resistance of 75 miles per hour.

Councilman Coffey said if the flags are torn up, get them down.

Vice-Mayor Hickman said if they are torn do not put them up.

Councilman Henson said we need to take the old flags that are taken down and give them to the American Legion to dispose of properly. He then wanted to know how much the City is paying Comcast for Channel 18 which we have not been able to use for over 2 years.

Mr. Roberts said the City does not pay Comcast anything for Channel 18. We made the decision 6 months or a year ago that we would stop broadcasting because no one from the public said anything when we stopped broadcasting. The number of people with cable tv is dwindling. It was one less thing for them to maintain.

Councilman Henson said he had talked to several people that were concerned that we were paying for the channel and were not able to access it. He advised that Public Works/Public Safety had a meeting several weeks back. They talked about a hundred feet of curbing installed on 4th Street. Supposedly the job turned out to be 300 or 400 feet. We give \$29.00 per foot and Johnny Cole figured we are paying \$36.00 or \$37.00 per foot. That is for material alone and does not include labor or equipment.

Mr. Tyree said some of the increase is because of the cost in material.

Councilman Coffey said that there are people saying we should not include labor in our cost because the workers are getting paid anyway. He said he does not agree with that statement.

Mayor Fitzgerald said we are not losing money. We do not charge for labor. He said that Johnny Cole increased the costs several years back.

Mr. Tyree said the cost does not include labor. The cost for materials alone is \$36.00 or \$37.00.

Councilman Webb said that most people cannot afford the cost to have curbing installed.

Councilman Henson said the Parks and Recreation Committee also met recently. They talked about camping. The rally field is full as of now for electric and water. There are a couple major events coming up and we do not have any where for them to hook up. There is some controversy as to who has priority: local campers or visitors. No one came up with a clear answer.

Vice-Mayor Hickman opined if we do not have enough electric spots, we should not let people come. We need to only rent out the amenities that we say we have. They then talked about black out dates. We do not have anything in place concerning this issue.

Councilman Coffey said when Nothin Fancy used to play at the park, they would fill up the whole place. All of them did not have water and electric. What a lot of people with big campers do is they fill their tank before they get here or after they get here. They do not need water after filling their tanks.

Vice-Mayor Hickman asked what we will do about the issue. She said the seasonal campers are our citizens. Do they take precedence over events? The reason this is a problem is because we have never had as many people camping. We now have 40 to 60 campers. We have never had that many at one time.

Councilman Coffey said if we change all the electrical at the park and do what we said we are going to do it will cut back on it unless we get the pedestals on the back side.

Councilman Henson said it will take \$80,000.00 to \$100,000.00 just to upgrade the electrical. He opined we need to start planning on doing something now. We see the problem there and it will not get any better. He said the events that have been had at the park this year have been successful. He said people are coming out more and using our park more, so we need to be able to accommodate them.

Vice-Mayor Hickman said they know it is a problem now, but we will not be able to work on it until winter.

Councilman Coffey said the only way we can get it done is to have the material and labor donated which has been done for the Fire Department.

Councilman Henson said this is the 4th of July weekend and there are a lot of people camping at the park. On Sunday, there will be a band from 7 p.m. to 11 p.m. along with fireworks at 9:30 p.m.

Councilman Coffey suggested running the trolley to help people get up to the pavilion. He then mentioned again the curbing that is painted yellow on 25th or 26th Walnut. He said this should be taken care of. This is a public street that people should be allowed to park on.

Mayor Fitzgerald asked Mr. Roberts to take care of this problem.

Mr. Roberts said he had heard some comments a few months back and it got lost in the shuffle. He will re-visit the issue.

Councilman Webb wanted to know when the ditch will be taken care of as you are coming into town.

Mr. Tyree said we will have inmates the week of July 12 and they will work on the ditch.

ADG #7 CONSIDER APPOINTMENTS TO VARIOUS BOARDS, COMMISSIONS, AND COMMITTEES:
NONE

OLD BUSINESS:
None.

NEW BUSINESS:

NB #1 FIRST READING OF AN ORDINANCE FOR A ZONING TEXT AMENDMENT SECTION 507 FRONTAGE AND PRIVATE STREETS:

Ms. Wheeler read the following Ordinance:

Zoning Text Amendment
Section 507 Frontage and Private Streets
Ordinance Text

AN ORDINANCE to amend Article 5 of the Land Development Regulations of the Code of the City of Buena Vista, as amended, to create a new Section 507 to address street frontage requirements and the construction of public and private streets.

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 and in accordance with good zoning practices, Article 5 of the Land

Development Regulations of the City of Buena Vista are hereby amended to create a new section 507 as follows in the attached Exhibit A.

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

William Fitzgerald, Mayor

ATTEST:

Dawn Wheeler, Clerk of Council

Date

NB #2 FIRST READING OF A ZONING TEXT AMENDMENT SECTION 802:

Ms. Wheeler read the following Ordinance:
Zoning Text Amendment
Section 802
Ordinance Text
6/28/2021

AN ORDINANCE to amend Section 802 of the Land Development Regulations of the Code of the City of Buena Vista, as amended, to update administrative items in the procedure for zoning permits generally and conditional use permits specifically.

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 and in accordance with good zoning practices, Section 802 of the Land Development Regulations of the City of Buena Vista are hereby amended as follows in the attached Exhibit A.

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

William Fitzgerald, Mayor

ATTEST:

Dawn Wheeler, Clerk of Council

Date

NB #3 FIRST READING OF AN ORDINANCE FOR ABANDONMENT OF PUBLIC RIGHT OF WAY PORTION OF ALLEY IN BLOCK 52, SECTION 4:

Ms. Wheeler read the following Ordinance:

Abandonment of Public Right of Way
Portion of Alley in Block 52, Section 4
Ordinance Text
6/28/21

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BUENA VISTA, VIRGINIA, that in accordance with Section 15.2-2206 of the Code of Virginia, as amended, that the public right of way described in "Exhibit A" attached hereto shall be vacated and abandoned upon receipt of the consideration noted in "Exhibit A" ("the Property").

BE IT FURTHER ORDAINED that as a condition of the aforesaid abandonment and vacation, the grantee shall within eighteen (18) months of the effective date complete the stormwater management property improvements as described in Exhibit A. If the improvements are not completed, the ownership of the abandoned and vacated land shall revert to the City.

BE IT FURTHER ORDAINED that this ordinance shall be recorded in the Clerk's Office of the Circuit Court for the City of Buena Vista, Virginia, and indexed under the names listed in Exhibit A.

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

William Fitzgerald, Mayor

ATTEST:

Dawn Wheeler, Clerk of Council

Date

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

William H. Fitzgerald, Mayor

ATTEST:

Dawn M. Wheeler, Clerk of Council

DATE: