



City of Buena Vista City Council Regular Council Meeting

October 3, 2024, 6:00 PM
Council Chambers – 2039 Sycamore Avenue

The City Council for the City of Buena Vista met for a Regular Council Meeting on Thursday, October 3, 2024, at 6:00 p.m.

Members Present: Mayor Tyson Cooper
Vice-Mayor Danny Staton Steve Webb
Michelle Poluikis Todd Jones
Ronald Cash

Members Absent: Melvin Henson

ADG #1: CALL TO ORDER, PLEDGE OF ALLEGIANCE, & PRAYER

Mayor Cooper called the meeting to order, and Councilwoman Poluikis delivered the opening prayer.

ADG #2: APPROVAL OF THE AGENDA

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

ADG #3: APPROVAL OF MINUTES FROM THE SEPTEMBER 19, 2024, REGULAR COUNCIL MEETING & PUBLIC HEARING

Motion to approve the minutes was made by Vice-Mayor Staton, seconded by Councilman Webb, and carried by Council.

ADG #4: RECOGNITION/COMMUNICATION FROM VISITORS

- Calvin Smith, 171 East 31st Street, again addressed his concerns regarding the abandonment of the alley at his home for the purpose of developing a private road to service a new housing development. He noted that based on his Google research, an abandonment can only happen if the public is not using the location in question, and he uses this alley every day. Mr. Smith also mentioned the three new houses on 33rd and Catalpa and that he had asked if that was done the same way that this abandonment is being proposed and was told that it was not because it was a public alley. He had a friend contact the seller of one of those properties to ask if the “lane” that goes up to that house is private or a public alley; they were told that it was private and that the other homes there also have access to it. Therefore, Mr. Smith feels that there were different procedures followed for that situation than the procedures for the abandonment of the alley at his home. He also requested that Mr. Roberts provide him with the number of rights-of-way in the City because he feels like there are none that would be the same as his since he will have to go through private property in order to access the public street.

ADG #5: REPORTS

1. Mayor

Mayor Cooper represented the City at the following events over the last few weeks:

- Monday Mingle hosted by the Chamber of Commerce at Focus Fitness
- School Board meeting
- President Bonnie Corden's inauguration at SVU

2. City Manager

- Ryan Groah with Public Works is certified in pre-employment drug screening, so moving forward, we will be testing employees in house. This will save us thousands of dollars each year. In the instance where something is questionable, we will continue to use Quest Labs as a backup.
- The Public Works leaf collection notice with dates and streets will be going out in the newspaper, on the website, and social media soon. As of now, they plan to begin the week of November 4th.
- The Town Square build began today. He and Mayor Cooper will be on-site on Sunday, October 6th, to serve dinner to the workers. He invited everyone to stop by one Sunday as they raise the stage cover.
- Mountain Gateway Community College has given us notice that they will not be renewing their lease at the 35 Vista Links Drive location as of July 31, 2025. They will be moving all of their Buena Vista operations to their property on Forest Avenue.

3. City Attorney

None.

4. Council Committees / Members

a. Budget & Finance

None.

b. Outdoor Spaces

The committee held a meeting on September 28th. Vice-Mayor Staton provided the following updates:

- They discussed some safety concerns at Glen Maury Park.
- Looked at property and brainstormed ideas at 8th and Linden.
- Talked about possibilities for the 10th Street soccer field, including overflow parking for camping and ball tournaments or additional ball fields.
- Development possibilities for the 33 acres in the park along 10th Street.
- Noted some dead trees that need to be removed from the cemetery as well as some leaning tombstones. Also reported vandalism of tombstones to the Police Department.
- They met with Dennis Bussey who gave them a demonstration on cleaning tombstones; all nontoxic materials and he does the work free of charge. His focus is veterans and children's graves.

c. School Facilities

The School Facilities Committee has a meeting scheduled for Tuesday, October 8th.

5. Department Heads / Constitutional Officers / Court Clerks

Wayne Handley – Police Department

- He has been working with Dr. Jones from the high school on some projects that include leadership in government and volunteerism for the National Honor Society.
- Corporal Alan Buzzard, who has been in public safety for 20 years (17 in the City), has retired as of October 1. He was a very well-liked School Resource Officer. They have filled the SRO vacancy with a certified officer who will be starting at the end of October. He will be coming from another jurisdiction with 19 years of experience.
- Two new officers have started, both certified. One from Botetourt County Sheriff's Office with 10 years of experience and the other from Roanoke County Sheriff's Office with 19 years of experience. The PD is not in a position where they have more people knocking on the door asking if there are any openings. These are certified officers coming from other agencies that are hearing about with the PD is doing here and want to be a part of that. The officers we have are doing an outstanding job, and as a result, we are getting a reputation in the area where people are looking at Buena Vista as a whole and looking at the department and feeling like they want to be a part of it.
- He is meeting with Pastor Scott Beaty regarding the Chaplain program. They are discussing the expectations and ideas about what the program should look like.
- He is collaborating with Sheriff Randy Hamilton and Registrar Emilie Staton on election safety, and they have a plan in place.
- He participated in a homelessness panel at the Rockbridge Area Relief Association along with Judy Casteel from Project Horizon and several other local community members from the CSB. They had good conversation about homelessness in the area and some new projects that they are looking at doing.
- He also noted that as we are gearing up for budget season, the PD will have a few small asks.
- They were able to travel the park road and get up in the air to cut the limbs that were hanging down.

6. Invited Community Organizations

None.

ADG #6: CONSIDER APPOINTMENTS TO BOARDS, COMMISSIONS, AND COMMITTEES

Rockbridge Area Social Services Board

Mr. Paul Janiczek's term on the Social Services Board expires on October 31, 2024. Mr. Janiczek is willing to serve another term. This is a four-year term and the first time it has appeared on the agenda.

There were no other applicants.

Councilman Jones moved to reappoint Mr. Janiczek to the Social Services Board with Councilman Webb seconding; the motion was carried by Council.

OLD BUSINESS

OB #1: DISCUSSION OF STRATEGIC PLAN

Mr. Tyree and Mr. Roberts met with Mike Hicks and David Terrell regarding the city's strategic plan. Mr. Terrell will be in the area on October 29th, so we will be conducting a few open community meetings that week to receive citizen and business input. We will also be having a City Council retreat on November 2nd where Mr. Terrell will be garnishing input from Council.

Mr. Tyree and Mr. Roberts will be having a follow-up meeting with Mr. Terrell on October 7th to finalize details on the meetings. Once those details are finalized, we will generate public notice with the current dates, times, and locations.

NEW BUSINESS

NB #1: DISCUSSION & DECISION ON HOME OCCUPATION IN RACEY ACRES

Prior to Council discussion, Mayor Cooper opened the matter up for public comment as there were a number of citizens present to speak about the home-based business. They expressed support for the business and highlighted its community benefits such as donations and prayer requests at the beginning of each show. There was an emphasis on the need for leniency on some issues, such as having someone there to assist her due to Mrs. Herring's age and health. Another highlight among the comments was the need for this business for elderly, disabled, or otherwise impaired patrons. Mrs. Herring provides everyday essentials such as toilet paper and laundry detergent that these individuals may not be able to get out and get. Many of the speakers also addressed safety concerns of children playing in the roads unsupervised in the neighborhood and feel that Mrs. Herring is being treated unfairly because of the location of her business. All those who spoke requested that Council to support the business and work to find solutions for the issues.

The following citizens spoke in favor of S & Crew Sales:

- Naomi Williams, 2172 South River Road
- David Herring, 2361 Edgewood Road
- Jenny Wilmore
- Sheena Herring, 2361 Edgewood Road
- Ellen Austin, Oak Avenue
- Marybeth Wimer, Raphine
- Tammy Wilhelm, Plowboy Lane
- Peggy Jolly, 1805 Hawthorne Avenue
- Regina Shafer, 2074 Maple Avenue
- Ruby Hotinger, 560 Sunnybrook Road
- Lew Hamilton, 2155 Sycamore Avenue
- Brenda Barlow, 3101 Rockbridge Avenue

Mr. Tyree provided a brief background on the issue. The home occupation at 2631 Edgewood Road has raised concerns from nearby residents. Mr. Tyree, Mr. Roberts, and Miss Ramsey have met with

the Herrings as well as the neighbors in Racey Acres and the main concerns that were raised were the neon “Open” sign (which has been removed), employees working with Mrs. Herring, and the fact that the items Mrs. Herring sells are not produced by her.

Code Section 705.01-2 states: The home occupation shall be operated only by the members of the family residing on the premises and no article or service shall be sold or offered for sale except as may be produced by members of the family residing on the premises. Mr. Tyree noted that since the nature of home-based businesses has changed significantly in recent years, the second part of the Code Section has not been enforced. However, we have enforced the fact that it has to be operated by members of the family only, and there are individuals regularly on premise assisting with business operations who are not members of the family residing on the premises.

Code Section 705.01-4 states: The home occupation shall not generate excessive traffic or produce obnoxious odors, glare, noise, vibration, electrical disturbance, radioactivity, or other conditions detrimental to the character of the surrounding area, and in general, shall give no evidence of nonresidential character of use other than through the use of a sign meeting requirements for professional name plates, as spelled out in Section 706.03-3. The term “excessive traffic” is not specific, but it is clear that the business generates multiple customer visits each day that it is open which adds traffic to the neighborhood and in some cases there are multiple customers parked on the street.

Staff has carefully considered both the business needs and the concerns of the neighboring residents. At this time, staff recommends allowing the business to make the necessary changes and to continue to monitor the situation for a 30-day period; during this time Mrs. Herring would be expected to obtain a new home occupation permit.

Mr. Roberts gave a history of the home-occupation permit. In 2022, Mrs. Herring received zoning verification and a business license to operate a live auction business from her home at 2631 Edgewood Road. At that time, the business did not involve customer visits, and no concerns were raised. In 2023, Mrs. Herring relocated her business to 29th Street, updating her business license accordingly. In May 2024, Mrs. Herring moved the business back to her home. Neighbors began raising concerns with City staff about increased traffic and potential disruptions to the neighborhood in June 2024. Mr. Roberts stated that he spoke with Mrs. Herring in late June to let her know that some concerns had been raised and told her that based on the information that we had at that point, we did not see a violation at that time. However, as the summer went on, we continued to look at the situation and gather more information. One of the things he did not realize at that time was that it had been more than six months since the business had been in her home. After six months, a zoning verification for home occupation expires, so at this point, her home occupation permit has expired. Therefore, from a procedural standpoint, she is out of compliance. This is why we are making recommendations to try to resolve the issues, get her into compliance, and then issue a new zoning verification for a home occupation, and she would update her business license at that point.

Mr. Tyree stated that staff recommends that during this 30-day period Mrs. Herring would obtain a new home occupation permit, ensure that only family members residing on the premise engage in business operations, and implement a system to limit and manage customer traffic in a way that reduces impact on the neighborhood. After the 30-day period, staff would review the situation to assess compliance and neighborhood impact. If at that point compliance is not achieved and/or

neighborhood concerns persist, further action including potential revocation of the home occupation permit, may need to be considered. Since Council has been aware of this situation, before there is a decision made at the staff level to move forward, Council may choose to suggest adjustments or limitations to the business operations, particularly to address the concerns around excessive traffic. Alternatively, Council also has the option to revoke a home occupation permit entirely, however, if the permit is revoked, the business owner may reapply, but staff would seek guidance on what conditions would be set for any future applications. The two things that need to be addressed by Council at this point is the “excessive traffic” and the perception of employees. The definition of “employees” is clear in the Code, and we have enforced that across the board. However, “excessive traffic” is not defined in the Code, so it is subjective and that is what staff needs guidance on. Staff is suggesting that in terms of addressing the excessive parking, that customers park off-street only; while that is not a provision in the Code, it was something that we thought could be a way to help address those potential traffic issues.

Councilman Webb asked how old the Code is, to which Mr. Roberts replied it is from the 1980s.

Councilman Jones questioned what the permit and application process looks like; how many permits have been issued for home occupations; and if that is different than a business license. Mr. Roberts said that the zoning verification for a home occupation and the zoning verification for a business are very similar. The only difference is that with the home occupation we would ask more specific questions about how much customer traffic there will be and who would be working there. When they get the permit, he refers to the regulations under Zoning Code Section 705, but he does not explicitly give them a copy of the full code section. He stated that he recently ran a report of home occupations in the City and there are currently 107 with active business licenses. Councilman Jones then asked if in order to have a home occupation permit, do you also have to have a business license, to which Mr. Roberts said is correct; they are not the same. The person would get the zoning verification then walk downstairs and get the business license from the Commissioner’s office.

Councilman Jones then referred to the Code Section 705.01-2, saying that based on the description of the business that it is basically a retail business and does not comply with that Code. He also asked if we are ignoring that because we ignore custom or traditions that it has been honored in the breach, and the problem with honoring something in the breach is that you end up creating this kind of chaos. He added that he has not heard any suggestions about revising the law so that people can comply with it; that is all the folks want to know, the rules, and right now these are the rules. Mr. Roberts stated that he has begun researching home occupation ordinances in other localities and has seen some good ideas for things that we could implement here. Councilman Jones then asked if we know how many [home businesses] in town are not complying with the Code Section. Mr. Roberts said that one of the issues with the “no article or service to be sold except as produced by members of the family residing on the premises” is that there is a bit of an interpretation question there. For example, if someone is selling Mary Kay, they are selling a product that is clearly not produced by them. He added that he believes the intent of the code would be to allow contractors, plumbers, handymen, etc., to conduct their businesses, which is why we need to update that Code.

Councilwoman Poluikis added that how this one situation is handled will open up a bottleneck for other issues. Her concern is that limiting the number of cars that could be at the home at any given time would be something new and could open up a Pandora’s box. She asked if someone has a Bible study at their home, would we then tell them, “you have too many cars in front of your house?” or

that they cannot have that many people there. Mr. Roberts said that he understands the perspective she is pointing to of why people coming over to a house for a business, whether it is working, helping to do the business, or customer traffic, is different than some other home gathering. He stated that the difference is that there are business areas where you can conduct a business. But then there are residential areas where you can and should expect residential activities and the things that go along with that such as people visiting, birthday parties, Bible studies, or other types of gatherings one may have. So, it is the business use that we are focusing on here. He added that it was clear from the public commentary tonight that this is a business that is doing a lot of good for the community, and it is a good business that people enjoy patronizing and that has benefited the community. He feels that the City benefits from having this business here as well, perhaps more so when it was at a business location. He thinks the issue comes back to allowing our residential areas to be residential areas and having the business as something that can be conducted there provided that there is not a non-residential character to that house.

Councilman Webb added that another problem we are going to face is who will monitor the vehicles coming and going; the PD certainly has other things to do than to sit up there and do traffic control in a residential neighborhood.

Councilman Cash spoke next saying that the gist of zoning is to protect and enhance whatever is designated for a certain zone. In residential zones, we expect it to have residential parking; in industrial zones, we would expect trucks and noise; in a business or commercial district, we would expect a lot of traffic and people. However, there are exceptions in every case. We have plenty of apartments above businesses in the downtown area. How can we protect parking for the business and for the residents in those situations? He then listed some examples of home-based businesses including babysitting, cooking or baking, insurance sales, tax prep, nail and hair salons, auto repair, tutoring, stock trading, Mary Kay; these are all things that people might engage in in an effort to make ends meet and to be a part of the business community. He asked for some grace and patience as Council works through this matter and digests all the information as we are dealing with people's lives here and [Council] has to study this. He also mentioned that the nature of how things are done has changes so much in the last 50 years; there are so many things in around the world that are of a service nature. Someone may not create the Mary Kay or Amway, but the service they provide is to get them to you.

Mayor Cooper feels that there are two things at play here. One being that we need to adjust our Code and the other is this specific situation. He shared that he has been praying and asking for guidance, and he continues to feel sad about this situation. He sees a neighborhood full of contention and animosity that was not the case six months ago. He said we are the fighting blues; we should not be fighting each other, and he feels strongly that if we cannot come together we are going to lose. He added that Council could make a decision tonight and walk away with no impact on them since they do not live in that neighborhood, but that is not fair, and no one would be happy. What he would like to offer is to find a location and facilitate a conversation between the residents of the neighborhood to see if we can come to a resolution sooner that the neighborhood can live with. Councilman Webb then made a motion to table the matter until the first meeting in November for further discussion. Councilman Cash seconded the motion, and it was carried by Council.

NB #2: APPROVAL OF A RESOLUTION GRANTING SIGNATURE AUTHORITY FOR LOCALLY ADMINISTERED VDOT PROJECTS

Mr. Roberts said that Council approved a different version of this a couple of years ago and this is an updated version of that. We apply for locally administered projects from time to time, including the state of good repair paving projects and the highway safety improvement plan project. So in order to move forward with these projects and in order for VDOT to issue us the project agreements, they need this signature authority resolution on file.

Mr. Roberts read the following Resolution:

**Resolution Granting Signature Authority for
Locally Administered VDOT Projects**

WHEREAS the City of Buena Vista locally administers transportation projects under agreements with the Virginia Department of Transportation; and

WHEREAS the City of Buena Vista desires to provide clear signature authority for Project Administration agreements.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Buena Vista Virginia, that when a locally administered transportation project is approved by the Council of the City of Buena Vista, the City Manager or his designee is authorized to execute all agreements, addenda, and modifications to such agreements with the Virginia Department of Transportation as needed to advance such project.

BE IT FURTHER RESOLVED that the Council of the City of Buena Vista commits to fund its local share of preliminary engineering, right-of-way, and construction phases of such project as applicable under the project agreement with the Virginia Department of Transportation.

Approved: This 3rd day of October, 2024.

Tyson T. Cooper, Mayor

Attest:

Sarah M. Burch, Clerk of Council

Mayor Cooper asked if the old version expired or if they changed to wording; Mr. Roberts said that they changed the wording in the last paragraph. He then asked if this is something that we have to do every few years or wait until they tell us to; Mr. Roberts said we just wait until they tell us. Mr. Roberts also wanted to note the line that says “when a locally administered project is approved by the Council of the City of Buena Vista;” he wants to be clear that this is not just a blanket authority for us to hand out City money.

Councilwoman Poluikis made a motion to **approve** the Resolution with Vice-Mayor Staton seconding, and it was carried by Council.

ADJOURNMENT

There being no further business, the meeting was adjourned.

Sarah M. Burch, Clerk of Council

Tyson T. Cooper, Mayor