

BANNER ELK TOWN COUNCIL MEETING

June 12, 2023

MINUTES

The Banner Elk Town Council met on Monday, June 12, 2023, at 6:00p.m. in person for Council and staff with public participation. Remote viewing was offered through zoom.

Council Members present: Mayor Brenda Lyerly, David Lecka, Charles VonCanon, Mike Dunn, and Robert Tufts

Staff present: Town Manager Rick Owen, Town Attorney Four Eggers, Police Chief Kevin Hodges, Public Services Director Justin Hodges and Zoning Administrator Riley Pudney.

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular Town Council meeting of June 12, 2023, to order.

Pledge of Allegiance

Mayor Lyerly led those in attendance with the Pledge of Allegiance.

Invocation

Council Member Charles VonCanon opened the meeting with prayer.

Public Hearing for 2023-2024 Budget

Town Manager Rick Owen read the budget message to the Council. The message included information on the proposed tax rate of 0.46 cents, a 5% cost of living increase for staff, and information on proposed projects and expenditures. There were no additional comments from the public.

Public Hearing for Commercial Highway Zoning District

Town Manager Rick Owen began the public hearing by explaining to the public that the Town Council was approached with a potential hotel project with a building that is 70 feet tall on a parcel outside of the town limits that would be annexed to receive water and sewer service. Under the current ordinances, the project would not be able to meet the requirements of Town codes. Council ask Town Staff to look at making changes to the Mixed-Use zoning district to allow for such a project. Town staff approached the Planning Board and began discussing amending the Mixed-use district which already allowed for buildings up to 70-foot. After discussion, it was found that changing the Mixed-Use district would potentially create a negative impact on existing Mixed-Use parcels. Due to this potential consequence, the Planning Board recommended a new zoning district that would allow for 70-foot-tall buildings 125 feet off a public highway such as 184/194. Manager Owen provided a handout showing a comparison of the current zoning districts and the newly proposed one.

- Fred Schmitt of Puddingstone Parkway addressed the Council. He stated that he believed that the ordinance has been rushed and that information has not been properly relayed to the public. He encouraged the Council to consider the cost and benefits of allowing this ordinance to pass. He further explained that he did not believe that development allowed by this ordinance would match the look and feel of Banner Elk. He ended by stating that he is concerned that the Town's infrastructure would not be able to adequately handle new development of this size.
- Donna Dicks of Old Turnpike Road addressed the Council by voicing her concern over the impact it would have on the Town's resources such as water and sewer. She further explained that a 70' tall building would not match the look of Banner Elk. She concluded by saying she was not in favor of the ordinance.

- Bob Maland of Crooked Creek addressed the Council with his concerns. He stated that he believed there was no need for change and that development could happen under the current ordinance. He stated that by allowing a 70' tall building, the Town would be open to more liability for police and fire protection and urged the Council to vote no.
- Dedy Traver of Sugar Mountain stated that she believed the zoning and regulation of property lies within the Town's and that the proposed ordinance would be harmful to Banner Elk. She stated that the Council should not allow for another "Sugar Top" and should consider how this type of development would impact the infrastructure and surrounding environment.
- Dalton Kilby of Hodges Lane is the neighbor boarding the potential development site. He addressed the Council by stating that he is cautiously optimistic of the new ordinance that would allow for development and trusts that the Council would make the best decision for the Town. He ended by stating that his main concern would be the impact development would have on traffic.
- Dana Rominger of Shawneehaw Avenue stated that he has lived here his entire life and does not see the need for such big buildings.
- Wendy Snider of Sugar Mountain is a travel agent business owner and believes that the possible development of hotels from this ordinance would eliminate local businesses such as Air BnB's, VRBO's and travel agencies.
- Susy Rein of Crooked Creek echoed the concerns of others and stated that she believed the ordinance allows for too tall of buildings and that it should be edited to allow for a lower height. She also encouraged Council to identify all parcels that could potentially be zoned for the district. She also believed that the Town's Architectural Review Guidelines need to be more stringent. She ended by voicing her support for the annexation and thoughtful development of the proposed property.
- Hallie Willis a banker for the Developer addressed the Council by stating that the concerns she heard were out of fear and that this ordinance would allow for her client to build a 6-story hotel that would create much needed jobs. She explained that the project would create around 40 jobs with full time benefits and insurance. She ended by stating that she believes the ordinance was created with consideration and should be passed.
- Victoria Breckenridge of Dogwood Lane stated that she was concerned over the potential housing of employees that would be employed by development. She voiced her concern over the existing limited housing options and urged the Council to take that into consideration.

There were no further comments from the Public and the hearing was closed.

Approval of May 8th 2023 Minutes

Mayor Lyerly asked the Council to review and approve the minutes from the May 8th regular meeting. With no changes made, Councilman VonCanon motioned to approve the minutes as presented with a second by Councilman Dunn. All were in favor of the motion.

Approval of Stated Agenda

Mayor Lyerly asked if there was a motion to approve the stated agenda. Councilman Lecka motioned to approve the agenda with a second by Councilman Tufts. All were in favor of the motion.

Public Comment

Mayor Lyerly opened the meeting to comments from the public who were not on the stated agenda. There was no one who signed up to speak.

Zoning Ordinance Amendment: Commercial Highway District

Zoning Administrator Riley Pudney stated that the Council has heard the concerns of the public and has received all the information from Town staff regarding the new district. She informed them that she did not have anything further to add but would be happy to answer any questions the Council may have.

Councilman Lecka opened the discussion by saying that he believes the ordinance could work if done correctly and thought through. He believes the concerns of the public should be taken into consideration. He motioned to table the discussion and refer it back to the Planning Board for further review. The motion was seconded by Councilman VonCanon. Councilman VonCanon agreed with Councilman Lecka in that the Council and staff should take the public's concerns into consideration and work more on creating an ordinance that benefits the Town. Councilman Tufts agreed with the previous statements and also believes that there should be a cost benefit analysis completed for the proposed zoning amendment. He stated that development is good if done correctly. Councilman Dunn further agreed and expanded by saying that development has to be thought out and done properly. He is concerned over the possible unknowns of the State Highways, potential traffic impacts and current status of the ETJ and believes more thought needs to go in to considering the growth and safety of Banner Elk.

Mayor Lyerly thanked the public for their comments and agreed that they needed more time to consider the proposal. With a motion and a second to table it and refer it back to the Planning Board, Mayor Lyerly called for a vote. The motion passed unanimously and was referred back to the Planning Board and staff for further review.

Annexation Request 1858-1971-4914, 1858-2072-8215, 1858-1972-1213

Town Clerk Riley Pudney stated that she has certified the petition for the annexation of these three parcels and asked the Council to call for a public hearing for their next regularly scheduled meeting. With no comments or questions, Councilman Dunn motioned to call for a public hearing and was seconded by Councilman VonCanon. The motion passed unanimously.

Call for Public Hearing, Zoning Ordinance Amendments

Zoning Administrator Riley Pudney explained that three ordinances have been amended to properly reflect how the Town is enforcing the ordinance. The parking setback requirements prohibit any parking space to be in a setback, however, the Town has not enforced that section and many if not all parking areas are within the setbacks. The Sandwich Board Sign ordinance is being proposed to allow for 2 signs in a combined development to be placed in an approved area so that shops without street frontage are able to advertise their business. Lastly, the amendment to the Stream setback ordinance will allow for non-permanent features to be placed in the 50-foot stream setback. The approved features such as fencing, parking and dumpsters will still have to be outside of the 25-foot buffer, which is regulated by the State. Councilman Tufts asked how many sandwich board signs would be allowed at one time. Zoning Administrator Riley Pudney answered that only 2 would be allowed at any given time. She asked for the Council to call for a public hearing for their next regularly scheduled meeting in July. With no other comments or questions, Councilman Tufts motioned to call for a public hearing and was seconded by Councilman Lecka. The motion passed unanimously.

ETJ Board of Adjustment Member Appointment

Town Manager Rick Owen informed the Council that there was an ETJ resident who has applied to be on the Board of Adjustment. In order for him to be appointed, the Council must recommend him to the County Commissioners for appointment. With no questions, Councilman VonCanon motioned to recommend the applicant to the County Commissioners and was seconded by Councilman Dunn. The motion passed unanimously.

Annexed Tax Parcels Listing Error

Tax Administrator Riley Pudney informed the Council that there are previous annexations that had not been properly reported to Avery County and therefore had not been on the Town's tax scroll. Due to it being a clerical error, she requested that the Council consider waiving any interest and penalties and provide the taxpayer with a full calendar year to pay their taxes. With no questions or comments, Councilman Tufts motioned to waive any penalties and interest and allow for one year for taxes to be paid. The motion was seconded by Councilman VonCanon and passed unanimously.

2023-2024 Fiscal Year Budget

Town Manager Rick Owen asked the Council to table the vote for the budget until their June 27th budget meeting due to some upcoming changes to the budget. Councilman Dunn motioned to table the discussion until the 27th and was seconded by Councilman Tufts. The motion passed unanimously.

Manager Updates

Town manager Rick Owen provided the Council with staff reports and the following updates:

-The Culver Street project is completed and has had a soft opening. He asked the Council to set the speed limit to 15 mph. Councilman VonCanon motioned to set the speed limit to 15 mph and was seconded by Councilman Dunn. The motion passed unanimously.

-He informed the Council that the first Art on The Green show was a success despite the rain and that the next one is on July 1st and 2nd.

-He informed the Council that for their next meeting he will have an application for a new representative on the ABC Board. He explained that Donna Dicks has stepped down and has recommended her replacement to him.

Mayor Lyerly asked about the water leak at the theater and what had caused it. Town Manager Rick Owen answered that a line had come loose under a sink and had leaked roughly 1.5 inches of water into their green room. He further explained that Town maintenance worked for four hours and removed all the water and that Gary had hired a professional cleaning crew to mitigate any potential mold growth.

Other Business

Fred Schmitt asked to address the Council and thanked Town Manager Rick Owen for attending the Avery County budget hearings and getting the school payments reduced and stretched out for a few more years.

Seth Fellman, the developer for a potential hotel, told the Council to let him know of the recommendations for the new zoning district.

There was no other business stated.

With no further comments or questions, Councilman Tufts motioned to adjourn and was seconded by Councilman Dunn. The motion passed unanimously, and the meeting was adjourned at 7:23 p.m.

Mayor Brenda Lyerly

Attested

Approved: