

BANNER ELK TOWN COUNCIL

**December 12, 2016
MINUTES**

The Banner Elk Town Council met Monday, December 12, 2016 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

Council Members present: Mayor Brenda Lyerly, Charlie VonCanon, Allen Bolick, Mike Dunn, Robert Tufts and David Lecka.

Staff present: Town Manager Rick Owen, Cheryl Buchanan, and Attorney Four Eggers.

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting of December 2016 to order.

Pledge of Allegiance

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

Invocation

Council Member Bolick opened the meeting with prayer.

Public Hearing – Zoning Ordinance Amendment, Section 307

Mayor Lyerly opened the public hearing at 6:02 p.m. regarding the Zoning Ordinance Amendment Section 307. She called upon Cheryl Buchanan. Ms. Buchanan reported that in the past, the Town's position has been that if a "use" was not listed in the Table of Uses in the Zoning Ordinances, it was not permitted. However, under the current ruling of the Supreme Court, a blanket prohibition on activities in a zoning ordinance is not appropriate. Ms. Buchanan noted that because the Town cannot conceivably list every land use that may exist, the Town worked on rewording and updating the description of Section 307 – Intent. She stated that the proposed new language was shown in red. The Court also suggests that the Town updates the Table of Uses in the Zoning Ordinance regularly to keep up with the changing times. Mayor Lyerly asked if anyone had any questions. Mayor Lyerly closed the public hearing at 6:03 p.m.

Public Hearing – Zoning Ordinance Amendment, Section 502.1

Mayor Lyerly opened the public hearing regarding the Zoning Ordinance Amendment Section 502.1 and called upon Cheryl Buchanan. Ms. Buchanan reported that this amendment deals with the scale, proportion and the calculation of building heights. She noted that in the past, a building height was calculated by the average grade of the slope of the entire property. Ms. Buchanan stated that there are numerous terrains in the Banner Elk area and that the Planning Board has found that the ordinance does not take into consideration areas that are located in the floodplain. The point used for calculating height would be from the finished grade and not the average natural grade, depending on where the base flood elevation falls. Mayor Lyerly asked if there were any questions. Council Member VonCanon stated that much of the lay of the land within the Town Limits is in the flood plain and believes this amendment will help in future building construction. Mayor Lyerly closing the public hearing at 6:05 p.m.

Public Hearing – Annexation Request by Petti, Inc.

Mayor Lyerly opened the public hearing. Mr. Owen reported that the Town received an annexation request for two parcels located on Highway 184, approximately 5.2 acres. He noted that the land sits between the entrance to Bear Run and High Country Square and across the street from Best Western. Mr. Owen stated that the petition comes by way of the owner, Petti, Inc, on behalf of the developer whose interest is to develop the land and is requesting annexation in order to receive water and sewer services from the Town. The annexation request is also contingent upon the receipt of a zoning permit for the development of a hotel. The development will still have to go before the Planning Board to be approved and the annexation will not become effective until the process is complete. Mr. Owen noted that the petition requesting a contiguous annexation has been certified. Mayor Lyerly asked if there were any questions or comments. Mayor Lyerly closed the public hearing at 6:06 p.m.

Public Hearing – Extension of Sandwich Board Sign Ordinance

Mayor Lyerly opened the public hearing. Cheryl Buchanan reported that the temporary Sandwich Board Sign Ordinance expired mid October and the Planning Board would like to extend the ordinance for an additional six months. This would allow the Town to determine how sandwich board signs were utilized throughout an entire year which would allow the Town to determine if their use would become permanent. Ms. Buchanan noted that the extension would end in May 2017. There being no questions or comments, Mayor Lyerly closed the public hearing at 6:07 p.m.

Approval of the Minutes

Mayor Lyerly asked if there was a motion to approve or amend the November 14, 2016 Town Council Minutes. Council Member VonCanon motioned to approve the November Town Council Minutes as written. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Approval of the Stated Agenda

Mayor Lyerly asked for a motion to approve or amend the December 2016 agenda. Council Member Tufts motioned to approve the December 2016 agenda as stated. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Public Comments

Mayor Lyerly called upon Donna Dicks. Ms. Dicks reported on the Book Exchange's first year of operation. She noted that it's been an exciting year with a lot of positive feedback coming in from locals and visitors. Ms. Dicks noted that the Book Exchange is staffed by volunteers Tuesday through Friday from 10:00 a.m. until 5:00 p.m. and Saturday's during the summer months from 1:00 until 4:00 p.m. She stated that the Book Exchange also offers a Book Discussion the first Tuesday of every month at 6:30 p.m., story times for children, life skills classes for Avery Middle School students, along with various programs regarding various topics which again are opened to the public. Ms. Dicks also reported on the statistics that have been collected over the year (i.e. number of people and books that have come through the doors of the Book Exchange). She thanked Council for their support.

Audit Presentation

Mayor Lyerly called upon Misty Watson. Ms. Watson reported on the highlights of the audit for the period ending June 30, 2016. She noted that the Town's assets exceeded its liabilities by \$8,264,059 which is an increase of \$808,000 from the prior year which includes governmental and business type activity. The increase is primarily due to an increase in revenues above market expectation for ad valorem taxes, local option sales tax and water and sewer charges and also conservative spending for the year. Ms. Watson reported that the property tax collection rate increased .98% from the fiscal year 2015 to 97.75%. The unassigned fund balance for the General Fund is a little over 1.4 million which is 91% of the General Fund expenditures. She noted that no new debt was incurred in the fiscal year ending June 30, 2016. Ms. Watson reported on the cash and cash equivalents over the past three years along with the General Fund balances. She noted the property tax collection rate has remained stable over the past three years. Council Member Lecka asked how Banner Elk's tax collection rate compares to other municipalities in the area. Ms. Watson stated that it is above the average. She noted that she doesn't have the exact rate compared to the State, but can provide it later and stated that if anyone has any questions after reading the audit, to call her. Mayor Lyerly thanked Misty for all the hard work and information.

Zoning Ordinance Amendment, Section 307

Mayor Lyerly asked if there was a motion to approve the Zoning Ordinance Amendment. Council Member Lecka motioned to accept the amendment as presented. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Zoning Ordinance Amendment, Section 502.1

Mayor Lyerly asked for a motion to accept this amendment. Council Member VonCanon motioned to accept the Zoning Ordinance Amendment. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Annexation Request

Mayor Lyerly asked if there were any comments or questions regarding the annexation request. Mr. Owen stated that as mentioned in the overview, this annexation is contingent upon issuance of a permit. He recommends that Council consider putting a time frame on this process. Council Member Tufts motioned to approve the annexation and that the issuance of a permit take place before June 30, 2017. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Requested Extension on Sandwich Board Sign Ordinance

Mayor Lyerly asked if there were any questions or comments. Council Member Dunn asked if this was the last extension and Ms. Buchanan confirmed it was. Council Member Lecka motioned to extend the Sandwich Board Sign Ordinance for another six months (December 12 through May 12). Council Member Dunn seconded the motion. All were in favor. No one opposed.

HBES Events Committee Report

Mary Lyerly called upon Fred Schmitt. Mr. Schmitt reported that Council asked that a committee be formed to address some of the issues associated with scheduling events held on the grounds of the Historic Banner Elk School. He read the names of all those serving on the committee and noted that they met on Tuesday, November 15, 2016 at 6:00 p.m. One of the questions Council posed to the committee was: Do we have too many arts and craft shows in Banner Elk? Mr. Schmitt stated that it was the committee's consensus opinion, receiving feedback from artists, vendors, business owners and patrons that the Town does not have too many shows. The Committee did recommend that the shows remain of high quality with a sufficient calendar gap between the events. Mr. Schmitt went over the scheduling of events for the Town of Banner Elk and the Avery Chamber of Commerce for 2017 and 2018. He noted that the Banner Elk Chamber of Commerce sponsors several theme based and holiday events throughout the year which are directly coordinated with the Town. Mr. Schmitt stated that the committee wants to maintain open lines of communication between all parties. It is important in the ongoing success of all events held on the school property. He is aware that Town Council desires an annual review to ensure that no conflicts with scheduled dates have arisen and to update fees charged to sponsors. Mr. Schmitt reported that the committee also discussed changes in format and the feasibility of holding additional revenue generating events at the Historic Banner Elk School property. It was the general consensus of the committee that since the Town dedicates a significant amount of in-Town resources to all of these events that any such event would have to financially benefit the Town of Banner Elk as a principal recipient of revenues that are generated. Mayor Lyerly thanked Mr. Schmitt for the thorough report.

Historic Banner Elk School Project Updates

Mr. Owen reported that the one tenant that the Town had, Bear Realty, has moved out. She purchased a property in Town.

Mr. Owen stated that he's had some informal conversations with two potential tenants who are interested in moving into the building. The Town also has a couple of ladies teaching fitness classes two days a week. He noted that Pickle Ball is still being played in the gymnasium several times a week.

Mr. Owen reported that the tree lighting took place at the beginning of December. There was a good turn out and the gymnasium was also used for a Christmas movie night.

Council Member Tufts asked that in regards to the events held at the school property, what will be the rent? Is there a schedule? Mr. Owen stated that there is no schedule of fees. This will be something that Council may need to address before the summer. Mr. Owen noted that by next month's meeting he will bring some figures back to Council and also asked Council for their feedback and suggestions.

Council Member Bolick reported that the matching grant's current balance through today is \$22,701. He stated that someone has offered to make up the difference which is \$2,299 to reach the \$25,000 goal. Mayor Lyerly congratulated Council Member Bolick for his efforts in reaching this goal.

Manager's Update

Mr. Owen reported that included in Council Member's packet are the police report, planning, zoning, tax collection report and the financial report for 5 months ending 11/30/16. Also attached is a copy of the October 6, 2016 High Country ABC Board Meeting Minutes. Mr. Owen noted that if there were any questions regarding these reports to let him or staff know.

Mr. Owen stated that the Town continues to work on its projects. He noted that the VonCanon's are in Town so he was able to meet with them regarding a few changes to the Millpond Sidewalk Extension Project. Destination by Design is working on their drawings and making a few changes/modifications.

At 6:30 p.m. Council Member Bolick motioned for Council to proceed to closed session pursuant to NCGS 143-318.11. Council Member VonCanon seconded the motion. All were in favor. No one opposed. Mayor Lyerly thanked everyone for coming.

Council returned to open session at 7:33 p.m.

Other Business

Council Member Dunn motioned to support the Ensemble Stage theater group coming to the Historic Banner Elk School and direct the Staff and Attorney Eggers to proceed with drafting a lease for the theater group. Council Member Tufts seconded the motion. All were in favor. No one opposed. Mr. Owen noted that he will be working with Lisa Lamont who is the Managing Director and Gary Smith, the Artistic Director.

Council Member Tufts asked if there is a way Council Members could receive the Audit Report before Ms. Watson makes her report and presentation to Council. Mr. Owen noted that she did state she was available for questions and he would ask her to return for another meeting if Council desires.

Attorney Eggers noted that it is part of her contract that she answers questions from Council related to her findings. If Council wishes here to come back, it would be appropriate to ask.

Council Member Tufts brought up the subject of "high quality events" that was presented by Fred Schmitt and the HBES Events Committee at this evening's meeting. There were discussions among Council Members regarding the committee being a jury and making these decisions and determinations, the standards that Council would like to see occur at these events, etc. Mr. Owen stated that Town Staff can help with this by preparing regulations for events being held on Town property along with a fee schedule. Council Members agreed that arts and craft events and the Woolly Worm Festival are entirely different and should be treated differently including the fees charged. Mr. Owen stated that the dates have already been established. Staff will make recommendations for Council for all events held on the school property including Woolly Worm, Arts and Crafts and the Farmers Market

Mr. Owen noted to Council that if there is anything Staff can do to help with their Christmas party on Thursday, December 15th for Town Committees and Staff to please let Nancy know. Mr. Owen stated that approximately 40 people will be attending at it will be held from 4:30 until 7:00 p.m. Council Members discussed the number of tables needed and the overall set up for the event.

There being no further business, at 7:56 p.m. Council Member Dunn motioned to adjourn the December 2016 Town Council meeting. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Adjourn

The Town Council meeting adjourned at 7:56 p.m.

Mayor Brenda Lyerly

Attested

Approved: January 9, 2017