

BANNER ELK TOWN COUNCIL
November 11, 2019
MINUTES

The Banner Elk Town Council met Monday, November 11, 2019 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

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

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting of October 2019 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.

Mayor Lyerly asked if there were any veterans in attendance. She thanked them for their service.

Public Hearing – Consider Zoning Ordinance Amendment: Building Height in MU Zoning District

At 6:01 p.m. Council Member Tufts motioned to open the public hearing. Council Member Lecka seconded the motion. All were in favor. No one opposed. Cheryl Buchanan reported that included in Council's packet is a Resolution to Amend Section 502.1 Regarding Building Height in the MU Zoning District which was drafted by Attorney Eggers. She noted that currently the only affected property in this district is the old hospital. Ms. Buchanan stated that within this ordinance change a building containing the increased height would be set back from the highway at least 250 feet and at least 100 feet from all other property lines. The property would be located on a valley floor such that the adjacent ridgelines, at their average point, extend at least 70 feet above the top of the building as measured from the vantage point located on a state highway. Ms. Buchanan noted that changing the height restriction in this particular zoning district would be a suitable allowance for that particular site. Mayor Lyerly asked if there were any questions regarding the zoning ordinance amendment. There being no questions or comments, Mayor Lyerly asked for a motion to close the public hearing. At 6:03 p.m. Council Member VonCanon motioned to close the public hearing. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Approval of the Regular Meeting Minutes

Mayor Lyerly asked for a motion to approve or amend the October 14, 2019 Regular Meeting Minutes. Council Member Lecka motioned to approve the minutes as written. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Approval of Stated Agenda

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

Public Comments

Donna Dicks addressed Council. She noted that she and her husband live on Turnpike Road West and that 4 pieces of property have been purchased by an individual from Charlotte. Ms. Dicks stated that this individual's intention is to renovate those houses and turn them into Airbnb's. She expressed her concern about what this will do to their neighborhood. Ms. Dicks asked Council if they will consider restrictions for this type business in our area. Ms. Buchanan stated that she and Mr. Owen are looking into this matter and that the State of North Carolina is also working on some legislative guidelines. She noted that the biggest problem the Town is running into with Airbnb's is their reporting policy on rentals and the Town's occupancy tax. Mr. Owen stated that the Town will look at potential controls that can be placed on Airbnb's, in particular the concern with the neighborhood on Turnpike Road West that will be affected by these Airbnb's. He noted that several subdivisions such as the Vistas and Elkmont are handling these concerns through their POA's so they are able to regulate rental activity. The Town will be working with the Planning Board on potential controls which can be placed on Airbnb's.

ABC Store Audit Report

Sara Brewer presented the High Country ABC Audit Report for the years ending June 30, 2019 and 2018. She reported that the year ending 6-30-19 total sales were \$223,000 over 6-30-18 giving us a total sales figure of \$3,469,579. Ms. Brewer stated that the gross profit on sales for 2019 was \$69,904 over the previous year and at the end of this fiscal year the ABC Board gave each of the three towns a \$15,000 bonus. Ms. Brewer noted that the ABC Store has increased its profit distribution to the three towns and increased its Alcohol Law Enforcement to each of the three towns. She highlighted several items from the audit report. Mayor Lyerly thanked Ms. Brewer for her report.

Consider Amendment – Building Height in MU Zoning District

Mayor Lyerly noted that this item was presented at the public hearing and asked Council if there was a motion. Council Member Lecka motioned to approve the amendment. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Consider Call for Public Hearing – Rezoning Request

Cheryl Buchanan reported that this rezoning request comes to Council from David Jennings. She noted that the rezoning is for two parcels; one located on Highway 194 and corner of Edgar Tufts Road, which David Jennings owns. Mr. Jennings is purchasing the second parcel from Rob Robbins which adjoins Mr. Jennings' property. Ms. Buchanan stated that she met with Mr. Spencer Robbins and he presented her with a letter supporting the sale of Lot 5 in Valley View which his son Rob Robbins owns. He and his son both support and give David Jennings the authority to rezone the property. It is currently zoned R-2. She noted that Mr. Jennings would like to rezone both parcels to C-1P. Ms. Buchanan stated that Mr. Jennings also has the support from NCDOT. NCDOT recommended that Mr. Jennings use the entrance on the first parcel off of Old Turnpike Road as an entrance only and then exit onto Highway 194 off the other parcel. Ms. Buchanan also noted that the rezoning is in line with the Town's Land use Plan to expand commercial zoning. She reported that the Planning Board voted three to two not to recommend the rezoning, but after discussion with Attorney Eggers, Mr. Jennings is within his rights to bring it before Council and call for a public hearing to consider his request. Attorney Eggers stated that the Planning Board action is just a recommendation and that Council is not bound by such a recommendation. Council Member Bolick questioned the width of the potential exit road onto 194. Mr. Jennings noted that per the picture of the parcels in question, he pointed out that the strip of land going out onto 194 is 60 ft. wide. There was discussion about his business, operating hours, the Valley View subdivision and the neighborhood on Old Turnpike Road. Council Member Tufts motioned to call for a public hearing at December's Council meeting. Council Member VonCanon seconded the motion. Council Members VonCanon, Lecka and Tufts were in favor of the motion. Council Member Bolick opposed. Motion carried.

Historic Banner Elk School Project Updates

Mr. Owen reported that regarding the site plan that was discussed at last month's meeting, he reported that the Town along with Derek Goddard is continuing to work on providing Council with a final site plan recommendation at the December meeting. He noted that he will be meeting with David Poore to discuss water line interconnection between Culver Road and Shawneehaw Avenue and potentially from Azalea down to the end of that street. Mr. Owen stated that the Town met with Mountain Electric to discuss the varying of the power lines going into the property along with a time schedule for that project. It seems that the sensible thing to do would be to bury the power lines. He discussed the phases involved. He noted that Mountain Electric brought a contractor to the meeting and they are working up a price for this project along with a time frame. Mr. Owen stated that they also worked a little bit on spaces for Art on the Greene (12 x 12 squares), but in the scheme of things it wasn't very practical. Council Member Bolick asked if the Town should contact Piedmont Naturel Gas. Mr. Owen noted that the Town will definitely reach out to them, but foremost is getting the power in, burying the main line without disturbing the site so that the property can be utilized during the work project. There was discussion about the cost of burying the lines.

There was discussion regarding the Wi-Fi Project. Mr. Owen noted that Aerolina has ordered all the equipment based on all the locations that they went over with their engineer and Attorney Eggers has completed the review of the contract and hopefully we can get the contract signed soon. Mr. Owen noted that they also received a permit from the Town to install small cell technology.

Manager's Update

Mr. Owen reported that included in Council Member's packets are the Financial Summary Report for 4 months ending 10/30/19, police report, planning, zoning and tax collection reports. He stated that if there were any questions regarding these reports to let him or the staff know. Mr. Owen noted that also included in their packets is a copy of the High Country ABC Meeting Minutes of September 17, 2019.

After discussion about scheduling the Holiday Open House, Council agreed on the date of Friday, December 13th at 5:00.

Mr. Owen reported that the Small Town Christmas will be held the weekend of December 6th, 7th and 8th. There are many activities scheduled and the Town's related events are the Christmas Tree lighting on the Corner on Main and the YMCA reindeer run which will be held in the park on Saturday morning. He noted that there will be a Christmas parade held Saturday evening, which is Chamber related. Mr. Owen reported that Jo-Ann McMurray, president of the Chamber, has a new event scheduled for this year which is the Polar Plunge. Ms. McMurray explained the details and stated that the Police Department's goal is to raise \$5,000 in donations for the ETMA Board for Wildcat Lake. She stated that information about the event is on the Chamber's web site along with Grandfather Homes' web site. Ms. McMurray went over the schedule of events for the Small Town Christmas.

Mr. Owen reported that every year the Avery Journal puts out a Banner Elk, my Hometown relocation guide. He noted that for the past several years the Town has partnered with the TDA to do a half-page ad. Mr. Owen asked Council's approval to do the half-page ad which costs \$588 (\$294 each).

Mr. Owen stated that the Town has three newly elected Council Members along with the Mayor. He noted that he signed the Town up for the ethics webinar which Members will have to take again and they have six months to take the class. Mr. Owen reported that the live webinar will be available December 10th and since it was purchased, the Town will have a recording of it to be viewed at Council's convenience.

Mr. Owen noted that there is also a Newly Elected Officials class that the School of Governments is putting out; the essentials of municipal government. He asked that if anyone is interested in taking the class to let him know. The class will be for one day and will be held in Boone on Saturday, December 7th, in Asheville on December 6th and in Winston-Salem on January 9th.

Mr. Owen distributed to Council a text amendment to the Town of Banner Elk Personnel Policy. He apologized to Council for not making it an agenda item; wasn't ready until this morning. He stated that this is in reference to a section in the personnel policy entitled *Call-Back & Stand-By Pay*. Mr. Owen is proposing to change the section and entitle it *Stand-By and Call-Back Pay* as shown in red. He referred Council to Section 14 of the personnel policy and asked them to read it. Mr. Owen stated that these changes are adding more clarity, distinguishing the stand-by (on-call) from the call-back. The Town would also be paying the employee who is on stand-by or on-call for 5 hours of work each week. It would not be considered overtime unless they actually are called back to work. It would identify them as the first employee that is going to be called in case something happens. Mr. Owen noted that at present, all of the Town's employees are on-call because we work a 24/7 service, so not one employee is singled out. This change will create an identifiable on-call employee each week on a rotating schedule. Mr. Owen stated that the cost to the Town will be for that additional 5 hours a week. If that work was not overtime, if those hours were not work, the Town is looking at approximately \$5,000 - \$6,000 annually. The worst case scenario, if all those hours lined up to be work, would be at time and half or \$9,000. Mr. Owen believes this will bring more formality to the relationship with the Town's employees and he has been working with Justin Hodges, the supervisor, with this. Mr. Owen noted that this budget year will not require a budget amendment. There is currently money in the budget to cover this expenditure due to two employee positions which have not been filled. There were questions and Mr. Owen clarified. He reported that in the coming months, he will present to Council a completely revised personnel policy. Council Member Tufts motioned to approve the text amendment. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Chief Kevin Hodges reported that he attended the Institute for Intergovernmental Research (IIR) conference in Knoxville back in July. In attendance were approximately 40 police chiefs from around the nation who serve in very rural settings. He stated that the topic of this conference was the opioid epidemic and its effects on small towns due to their limited resources. He noted that Banner Elk's problem with this issue is not in-town, it is more of a "passing through" problem. Chief Hodges reported that he later received an invitation to speak at the International Association of Chiefs of Police on the same topic.

Chief Kevin Hodges addressed Council regarding the department's uniforms and its transition to a new style. He shared with Council photos of the current uniform and the proposed uniform. Chief Hodges stated that the department will keep the traditional blue uniforms for court appearances and similar functions and that it will be a slow transition from old to new. Council Members agreed with the change.

Council Member Tufts questioned Donna Dicks about the ABC Audit Report, going back to September regarding "past fail letters". Ms. Dicks explained how they work with Western News Network to perform undercover checks to see if outlets conform with ID checks. She noted that three years ago there was a 60% failure rate among the 20 outlets which did not check ID. Ms. Dicks asked Western News Network to work with the ABC Board again and out of the 20 outlets

surveyed only one failed. The outlet was notified and we offered to have their employees retrained and we had our ABC officer work with them. She noted that we are supposed to send out letters informing the outlets of their enforcement ID requirement (pass/fail).

There being no further business, Mayor Lyerly asked for a motion to adjourn November's meeting.

At 7:03 p.m. Council Member VonCanon motioned to adjourn the November 2019 Town Council meeting. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Adjourn

The Banner Elk Town Council meeting adjourned at 7:03 p.m.

Mayor Brenda Lyerly

Attested

Approved: December 9, 2019