

BANNER ELK TOWN COUNCIL
September 9, 2013
MINUTES

The Banner Elk Town Council met Monday, September 9, 2013 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

Staff present: Town Manager Rick Owen, Chief Byron Clawson, Steve Smith, Cheryl Buchanan and Attorney Four Eggers

Others present: Eddie Chapman, Rebecca Bolick, Penny VonCanon, Ted Silver, Jamie Shell and other interested parties.

Call Meeting to Order

At 6:00 p.m. Mayor Brenda Lyerly called the regular monthly meeting for September 2013 to order.

Pledge of Allegiance

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

Invocation

Council member Bolick opened the meeting with prayer.

Public Hearing – Rezoning Request

Ms. Buchanan addressed council stating that the town received an application for rezoning regarding a tract of land along Culver Road. It is currently zoned R-1 and the request is to have it rezoned to C-1P. She noted that at last month's meeting she handed out a list of permitted and conditional uses for C-1P which would help with the decision process. The town did notify adjacent property owners and advertised this request in the local newspapers. Mayor Lyerly thanked Ms. Buchanan and asked if anyone had any comments or questions regarding the rezoning application. There being no comments, Mayor Lyerly closed the public hearing.

Public Hearing – Zoning Ordinance Text Amendment

Ms. Buchanan addressed council stating that this is a change in the town's steep slope maximum density chart. It applies to anyone providing emergency and civil services located in a governmental zoning district. The new text would allow them more impervious surface than what our ordinance allows, which is currently at 60%. This new ordinance would allow 90% if there was a need for it. Mayor Lyerly asked if there were any questions or comments. Council member Tufts asked for clarification on how it will be written. Will it be changed to 90% or left conditional if they need it? Attorney Eggers stated that it will be 90% for emergency and civil services. There being no further comments or questions, Mayor Lyerly closed the public hearing.

Approval of the Minutes

Mayor Lyerly asked council for a motion to approve the August 2013 minutes. Council member Von Canon motioned to approve and accept the minutes as written. Council member Tufts seconded the motion. The August 2013 minutes were approved with all in favor and no one opposed.

Approval of the Stated Agenda

Mayor Lyerly asked council if there were any additions or changes to the stated agenda. Council member Bolick made a motion to approve the September agenda as stated. Council member Draughon seconded the motion. The stated agenda passed with all in favor.

Public Comments

There were no public comments

Rezoning Request

Mayor Lyerly asked if there was any further discussion regarding the rezoning request. Council member VonCanon stated his concern that the impervious surface on R-1 can go up to 40% and if it is changed to C1-P it will increase up to 50%. He wants the developer to be aware of the flood plain in this area, that any runoff that occurs on this site needs to be addressed and that any runoff from this area be directed away from the Shawneehaw Creek and the park. Council member Bolick asked if the flood plain could restrict this building in any way. Ms. Buchanan stated that one could build in the flood plain if it was built 3 ft. above the base flood elevation, but that is very high. She also noted that 50% of that property needs to remain a grassy area. Council member VonCanon noted that he wants council and the town to be aware of the setbacks in zone R-1 and C1-P and follow what our ordinance states. Mr. Eddie Chapman was recognized by the mayor. He stated that before we move forward with any construction or development of this site, we will abide by the rules, guidelines and ordinances of Banner Elk which includes sedimentation and erosion control. Council member Lecka motioned to approve the zoning request as submitted. Council member VonCanon seconded. All were in favor. No one opposed.

Zoning Ordinance Text Amendment

Town Manager Owen stated that this agenda item relates to the 90% allowance of impervious surface for emergency or civil services. Council member Bolick questioned if all of the property which the fire department acquired, which is pervious, will be parking spaces. Ms. Buchanan stated that the town hasn't received a parking plan yet. The planning board would like to see the fire department mirror what the school is going to do with their parking. She noted that the town's ordinance calls for a parking island every ten spaces. The fire department should adhere to the town's ordinance in that regard. Council member Bolick questioned if the 90% would allow them to blacktop the entire area underneath the parking that the school will be using. He hopes that they will introduce green space in that area. Mr. Owen reported that there was much discussion at the last planning board meeting regarding this parking concern, whether 90% will be enough or if it is too little and are we picking the 90% specifically for this project (which we are not). Mr. Owen suggests that the planning board ask the fire department for a parking plan with an actual impervious percentage to see if 90% will be enough or not enough. Council

member VonCanon agreed with Mr. Owen and noted that before council agrees to change the text we need to see an actual parking plan. All members agreed. Mr. Owen suggested that council pass this issue back to the planning board for further action and information. Council agreed.

Rezoning Request – Call for Public Hearing

Mr. Owen reported that the Banner Elk Volunteer Fire Department was gifted a .10 acre parcel of property from Avery County zoned M/E. This property (highlighted on the map) is located between the fire department and the turn in road to the old elementary school. The property the fire department currently sits on is zoned G/O. The planning board is asking council to rezone the gifted parcel to G/O so that the entire fire department property will be zoned the same. Council member Tufts motioned to call for a public hearing at the October meeting for the purpose of rezoning. Council member Lecka seconded. All were in favor. No one opposed.

Zoning Ordinance Text Amendment – Call for Public Hearing

Mayor Lyerly asked Mr. Eggers to explain this item. Attorney Eggers reported that the NC General Assembly made some changes as to how the Board of Adjustment within municipalities would work. The idea behind the general assembly and the land use planning committee was to try to standardize how boards of adjustment throughout the state do business. This would require an ordinance change for approving the board's actions. Previously everything by the board of adjustment required a 4/5 vote in the affirmative to pass. That has been changed to a simple majority by statute, except for variances which will still require a 4/5 vote. Mr. Eggers noted that the other change related to this is a simplification of the variance process. Instead of requiring five separate items to be voted upon, it is now consolidated to three items that require affirmative action. He noted that both of these changes are now reflected in the resolution which will become effective October 1, 2013. Mr. Eggers recommends council call for a public hearing to amend the zoning ordinance text. Council member VonCanon motioned for a public hearing. Council member Lecka seconded the motion. All were in favor. No one opposed. Council member Bolick asked if the October 1 effective date includes items that are currently in place with the board of adjustment. Mr. Eggers stated that this would take effect for any pending applications. Anything that is currently before the board or an application that has been filed, the majority to approve would be simple majority.

Fire Department Contract

Mayor Lyerly reported that this contract is done every year and asked Mr. Owen if there were any changes. Mr. Owen stated that there were none. Mayor Lyerly asked if there were any questions. Council member Tufts motioned to accept the contract. Council member Draughon seconded the motion. All were in favor. No one opposed.

Town Hall Meeting with Rep. Josh Dobson

Mayor Lyerly reported that the town was contacted by Representative Dobson's office. He is interested in holding a Town Hall Meeting in Banner Elk. She noted that she thought it was a good idea and a tentative date was set for Thursday, October 10, 2013 to be held at 6:30 p.m. Mr. Owen stated that he contacted Ms. Ryan to confirm the size of the space required and she thought the size of our council chambers, which holds 50, was appropriate. Mr. Owen noted

that he will call Ms. Ryan to see what the town can do to assist Rep. Dobson's visit to Banner Elk and the scheduled meeting regarding advertising it in the papers, etc. No action was taken.

Highland Drive Repair Work Update

Mr. Owen reported that the town received notice to proceed with this project. The contractor ordered the pipe for the project last Thursday, foresees a two week delivery period and hopes to get started as soon as the pipe is delivered. Once the contractor picks up the notice to proceed, Mr. Owen will send a letter to all property owners in the area thanking them for their patience and updating them as to the repair work. Mayor Lyerly asked if there were any questions. No action was taken.

ABC Board Travel Policy

Mayor Lyerly reported that the ABC Commission requires our ABC Board to have their travel policy approved each fiscal year. She asked if anyone has any changes to this policy or can it be approved as written. Council member Lecka motioned to approve the travel policy and submit it for another year. Council member VonCanon seconded. All were in favor. No one opposed.

Tax Release

Cheryl Buchanan addressed council. She reported that a parcel of property (1859-19-51-9166) has always been prorated for taxes because it is part in and part out of town. She noted that she missed exempting the part that is outside of the town's taxing jurisdiction and asked council to approve releasing this tax. Council member Bolick motioned to approve the tax release. Council member Tufts seconded. All were in favor. No one opposed.

Manager's Update

Mr. Owen reported to council that the financial report, police report, planning, zoning and tax collection reports were included in their packets along with a draft of the minutes of meeting from the Banner Elk Planning Board and the minutes of the High Country ABC Board. Mr. Owen asked council if there were any questions.

Mr. Owen noted that the Three Peaks USA Bike Ride that was held last year, which comes through town, will again take place this year. The race organizer was late getting his letter to the town asking for permission. Mr. Owen stated that he talked with the mayor and because there were no issues with last year's event, we approved the race coming through town. It will be held on September 23rd at approximately 10:45 a.m. The only town road that the race uses is Old Turnpike (the race comes down Beech Mountain, turns on Old Turnpike, will come out on Edgar Tufts and then towards Elk Park).

Mr. Owen reported that the League of Municipalities' annual meeting will be held on October 13-15, 2013 in Hickory. The deadline for registration is September 13. He asked that if any council member is interested in attending any of the courses or events to let him know. Mayor Lyerly noted that Monday, October 14 is a council meeting, so anyone who wishes to attend will have to work around the town's scheduled meeting.

Mr. Owen reported that a police officer, Sergeant Steve Gouge, retired. (Chief Clawson has this listed in his report.) He actually retired a month ago, but took a month of vacation. His official last day was August 29. Mr. Owen also noted that Mr. Gouge was very adamant about not being recognized for his service. Mayor Lyerly stated that he has been with the town for a long time and asked Chief Clawson to thank him on behalf of council for all his years of service.

At 6:35 p.m. council member VonCanon motioned to have council proceed to closed session pursuant to NCGS 143-318.11. Council member Lecka seconded. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.

Council returned to open session at 7:29 p.m.

Other Business

Mayor Lyerly reported that on Sunday, September 15 at 1:30 p.m. at the YMCA's Chapman Center, Dr. Bill Tate will be honored and inducted into the Hall of Legends along with Jack Wiseman. She noted that the tickets are \$20 (a catered event). Mayor Lyerly stated that she has tickets if anyone is interested in attending.

Council member Lecka stated that the craft fairs held in Banner Elk on the weekends have been a huge benefit to the town. He wants to publicly thank whoever is in charge of this event. It has attracted a lot of people into our town. Council member Draughon stated the woman who is in charge does a good job in drawing a fine quality of vendors into Banner Elk. Mr. Owen noted that the woman is Pat Harris. Council member Lecka asked if she was connected with the county. Mr. Owen stated that she isn't but that the county allowed her to use the space. It is good that the county, as a government, continues to let the space be used.

Council member VonCanon reported that the windows on the old elementary school were replaced and that they were wondering what to do with the old windows (i.e. auction), but because of liability they are going to give them to people and ask for a donation. He noted that if anyone knows of someone who may be interested in a window and will make a donation that they are available.

There being no other business, at 7:35 p.m. council member Bolick made a motion to adjourn the September 2013 town council meeting. Council member VonCanon seconded. All were in favor.

Adjourn

The town council meeting adjourned at 7:35 p.m.

Mayor Brenda Lyerly

Steven R. Smith
Finance Officer/Clerk

Approved: October 14, 2013