

BANNER ELK TOWN COUNCIL MEETING

November 11, 2024

MINUTES

The Banner Elk Town Council met on Monday, November 11, 2024, at 6:00 p.m.

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

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

Call Meeting to Order

At 6:00 pm Mayor Lyerly called the regular Town Council meeting of November 11, 2024, to order.

Pledge of Allegiance

Mayor Lyerly led those in attendance with the Pledge of Allegiance. Mayor Lyerly recognized Councilman Tufts who wanted to recognize Veterans on Veteran's Day.

Invocation

Council Member Charles VonCanon opened the meeting with prayer.

Public Hearing

Mayor Lyerly declared the Public Hearing open for the Rezoning Request by Lees-McRae College for 175 Hall Court. Manager Owen shared that this property is currently zoned Medical/Educational and one of the future owners would like it to be zoned R2. The adjoining properties are R2 and it is the Staff's recommendation and Lees-McRae's request that the parcel be zoned R2.

President of Lees-McRae, Dr. Lee King, expressed his gratitude to all involved in getting the Town restored to functioning status after Hurricane Helene. He provided more background about the future owners and their intent as well as the neighbor requests for the ability to purchase parcels in conjunction with this sale.

Mayor Lyerly closed the Public Hearing for this Rezoning Request for 175 Hall Court and opened the Public Hearing for the Zoning Ordinance Text Amendment – Medical/Educational, in reference to Lees-McRae College.

Manager Owen explained that this Text Amendment was held over from the September meeting. The college is looking to enter into a lease agreement with an outdoor type of store which is categorized general merchandise and is not an Allowed Use on the Permitted Use Table in M-E Zoning. The Planning Board and the Town Staff recommended that the Text be Amended to add a section to the code for general merchandise as an accessory use when associated with the Medical/Educational facility that requires for that use not to exceed 25% of the total area of the building, and with only one such accessory use allowed per parcel. In answer to a question from Council Member Tufts, Attorney Eggers explained that the new language would have its own section in the code.

Ted Silver spoke about the issues faced by this Amendment from a Board of Adjustments perspective due to the vagueness of the verbiage of the proposed changes. Mr. Silver mentioned several words that were vague and would therefore require interpretation by the Board of Adjustments. He asked the

Council to consider whether the language in the proposed Amendment is clear enough for all potential interpretations. Fred Schmitt spoke as the Chair of the Board of Adjustments, stating that the Board would support any changes that the Council makes. He asked that Council not consider this change as a single use but look at what may come up in the future.

Dr. Lee King, President of Lees-McRae, stated that Barnes and Noble was a retail operation for Lees-McRae for many years. He stated that this outdoor merchandising retail operation would sell the same branded merchandise in the same way as Barnes and Noble. He asked the Council to recognize that the College hasn't introduced anything truly new in nature with this new partnership.

Mayor Lyerly closed this Public Hearing.

Public Comment

There was no public comment.

Approval of Stated Agenda

Mayor Lyerly asked for a motion to approve or amend the stated agenda. Council Member Tufts motioned to approve the agenda as stated and was seconded by Council Member Dunn. The motion passed unanimously.

Lees-McRae College Rezoning Request

Manager Owen added to this Request that the motion include that the rezoning and recombination of individual tracts be contingent on the sale of the Hall Court property and Attorney Eggers asked that there be a time frame for the contingency. He recommended 60-90 days as a reasonable time frame. Council Member Dunn made the motion as requested, with a 90-day time frame, and was seconded by Council Member Lecka. The motion passed unanimously.

Permitted Use Table Amendment

Discussion was opened about the Permitted Use Table Amendment. Council Member Dunn asked about the signage for the building and Manager Owen explained that it is addressed in the allowable signage for the entire building. Attorney Eggers addressed the BOA member comments in Public Hearing and advised the Council to remember that the rules need to be applied consistently and to consider finding the proper balance for this issue. Council Member Lecka spoke about the college always having a retail store that sells branded merchandise. He stated that he believes all colleges have a store that has that function. He added that he sees that there are potential issues over time and suggested that there could be a stipulation that branded merchandise be included. Attorney Eggers acknowledged that it is challenging to find an objective way to tighten the language.

A motion was made to move forward with the Permitted Use Table Amendment by Council Member VonCanon and was seconded by Council Member Dunn.

Council Member Tufts asked about the parking minimums that were included in the change. Attorney Eggers explained that this would increase the number of public parking spaces even though there was not a minimum or maximum number required by code for this situation. The desire was to ensure there is parking so that it doesn't become a problem for future uses. He clarified that there isn't currently a parking requirement for general merchandise establishments in the ordinances.

The motion passed unanimously.

Consider On-Street Parking Request, Mark Minor

Manager Owen stated that Mr. Minor has an approved project and has asked about dedicating the parking and sidewalks that are in the Town's right-of-way. Attorney Eggers has prepared documents that dedicate the on-street parking and sidewalk in the Town's right-of-way connected to Mr. Minor's project to the Town and then receiving documents for the Town Council. Attorney Eggers reminded the Council that the agreement would increase the number of public parking in the area and would also support the number of spaces needed for his project now and for any future use. The agreement would be an acknowledgment that this would potentially be the most convenient use of that public parking. Manager Owen reminded the Council that Mr. Minor's project is one space short, and this provides the needed space, but it wouldn't solve a space requirement for a food establishment in that development in the future since they have parking requirements related to its seating.

Council Member Tufts saw it as a winning situation for both parties. Council Member Dunn clarified that the on-street parking would always be public and Manager Owen confirmed that it would. He asked if there would be any other restrictions placed on this parking and Attorney Eggers stated that the Town could decide that since they would now be under control of the Town. Council Member Lecka asked if this was the appropriate time to make restrictions and Attorney Eggers said that would be for a future time.

Council Member Lecka made a motion to approve the request as presented and Council Member Tufts seconded his motion. The motion passed unanimously.

Manager's Update & Staff Reports

Manager Owen acknowledged that Kevin Ledford, Banner Elk Boy Scout Leader, has built a beautiful flag box for the Town Hall.

He shared that the Resource Center has had over 700 separate volunteers since tracking began in that second week and over 4000 households have been served. Chuck Saunders provided an update on the days of operation, now Thursday through Saturday, and the intent to close for the Thanksgiving Holiday. Manager Owen spoke about the availability of resources at a new distribution center opening in Newland tomorrow (November 12, 2024). Mr. Saunders reported that resources have been pulled back out of the Historic School front building hallways, from in the front of the building, and from the sides of the building. The Banner Elk Resource Center will be scaled down and items that are currently in the field will be moving out due to the upcoming winter season. Manager Owen stated that while this was an important emergency rescue operation, the need has now become for recovery. Council Member Tufts spoke about the roads being improved, making it easier for traveling to a central location and decreasing the need for smaller centers.

Manager Owen reported that one meeting with FEMA has already taken place. The result of that meeting was approval for expedited funding for up to 50% of the expenses for the for-emergency repairs. The big projects right now still in an emergency state are Vistas, Elkmont, and Highlands. Vistas and Highlands are still currently without water and sewer and Elkmont is without water. Vistas and Elkmont are closer to being completed and Highlands should begin by the end of the week when their culverts could be delivered. The next things that will come are road and culvert repair for Crooked Creek and Silver Springs. Silver Springs appears to be imminent failure. There also needs to be work and assessment for undercut roads that can be addressed with temporary fixes under this for-emergency order. Lecka Lane will need to be a permanent repair of the bridge so that doesn't fall under these temporary emergency repairs. The next meeting is scheduled for tomorrow.

Police department has been completely cleaned out and salvage work is complete. Work is underway to remove everything necessary to stop the mold and mildew infiltration. FEMA will work to determine the future of that building and the funding involved. Temporary office trailers is being explored to provide appropriate space for the department.

Manager Owen overviewed the public spaces around Town that will need to be repaired or replaced. He updated the Council on debris removal and explained that the Town is currently signed on with the County on the debris removal contract. The consultant has recommended that the Town engage in their own independent debris contract in order to address safety of roads for emergency services including snow removal. Attorney Eggers shared the Army Corps of Engineers runs their own permits for stream restoration and can work on private property.

Manager Owen discussed the need for a call for contracts for consulting services, currently being provided by Insight. The call needs to take place before the 90-day exemption for bidding for services expires.

Manager Owen announced that there will be a FEMA and SBA meeting tomorrow night at the Best Western to answer questions.

Council Member Lecka asked about the potholes being filled and Manager Owen said that the direction has been given that repairs to 184 and 194 need to be made before ski season. Council Member Lecka also asked about the projected length of time for recovery. Manager Owen stated that Insight has advised that it would take 3-5 years.

Council Member Dunn asked about utility bills, and Manager Owen stated that they went out two weeks late due to the storm.

Other Business

Plans for this year's Christmas celebration to include fire department, maintenance, police department, and volunteers.

Council Member Dunn discussed having the staff lunch and the community Christmas the same day, Thursday, December 12, from 4-7 pm.

Adjourn

With no further business, Council Member Lecka motioned to adjourn at 7:15 pm and was seconded by Council Member Tufts. The motion passed and the meeting was adjourned.

The meeting ended at 7:15.

Approved: _____
Mayor Brenda Lyerly

Attested: _____