

MINUTES
VILLAGE OF FLAT ROCK COUNCIL MEETING
ASSEMBLY ROOM – VIA ZOOM
NOVEMBER 12, 2020
9:30 A.M.

Mayor Weedman presided over the November 12, 2020, council meeting at 9:30 a.m. Those present in addition to Mayor Weedman were Vice Mayor Jamerson, Council Members Carpenter, Coletta, Dethero, Gooch and Posey, Village Clerk Parker and Village Administrator Christie. Mr. Robert W. Oast, Jr., Attorney, Mr. Marshall Kanner, Owner of Mill House Lodge, and Village Attorney Sharon Alexander were also present.

MOMENT OF SILENT MEDITATION/PLEDGE OF ALLEGIANCE

Mayor Weedman led the group in a moment of silent meditation. He then led the group in the Pledge of Allegiance.

Public Hearing – Proposed amendment to the Land Development Ordinance – Motel Lodging District

Council Member Carpenter made the motion to go into the public hearing, seconded by Council Member Coletta. The vote carried by unanimous vote.

Administrator Christie explained the public hearing is for zoning permit Z20-033, request to amend the Village of Flat Rock Land Development Ordinance, Section 812 – ML & ML-CD Motel Lodging District. Two actions are requested by Village Council: 1) Per Article XVI, Section 1604 of the Village of Flat Rock Land Development Ordinance (LDO), before adopting, amending or repealing any portion of the ordinance, the Village Council shall hold a public hearing, and 2) Also, per Section 1608 of the LDO, prior to adopting or rejecting any amendment, the Village Council shall adopt a statement describing whether its action is consistent with an adopted comprehensive plan and explain why the Council considers the action taken to be reasonable in the public interest.

Administrator Christie gave some background by stating last June, Mr. Robert Oast, Jr. sent a letter to the Village on behalf of Mill House Lodge asking about the possibility of the lodge moving away from lodging use only to a residential owner-occupied use with lodging still possible. After reviewing the letter and consulting the Village Attorney with respect to the intent of this zoning designation, it was determined that the residential use Mr. Oast was proposing did not meet the LDO definition of a lodging facility, which is the intended principal use of the ML or Motel Lodging District.

Consequently, Mr. Oast filed an application on behalf of Marshall N. Kanner (registered agent for the Mill House Lodge) to amend the language of Section 812 ML-ML-CD Motel Lodging District of the LDO. At this time, this zoning designation applies exclusively to one property within the Village of Flat Rock, the Mill House Lodge.

Currently, the ML zoning district is intended for the principle use to be lodging facilities, which are defined, in part, as a temporary lodging place for compensation. The language does not include residential uses as either a permitted or special use. The current language also includes a limit of forty-five accommodations.

According to Mr. Oast, the owner of this property desires to make it possible to allow the units to be used as owner-occupied condominiums transitioning from the transient nature of lodging to a more residential arrangement while retaining the ability to use some of the units as lodging. The owner initially indicated a desire to add 10 additional units at some point in the future but has since withdrawn that request.

Under the current language of Section 812(A), the intent of the ML district is for the principle use to be a lodging facility. The proposed amendment to the language would make a significant change that intent.

The application states the purpose of the text amendment is to permit multi-family and residential condominium uses in the ML District. This proposal seeks to change the use of the property from strictly a nonresidential use to a residential/nonresidential use.

The Planning Board voted at its October 6, 2020, meeting to recommend approval of the proposed text amendment and as part of its recommendation, included a condition that the adjacent property owners be notified of the public hearing. Administrator Christie reported this is not currently required by the ordinance; however, a notice was sent to the adjacent property owners and a sign was posted on the property.

Administrator Christie received a public comment via email from Johanna Erlenbach of 21 Wood Road, who expressed various concerns with the ML-ML-CD Motel Lodging District.

Mr. Robert Oast, Jr. presented a short PowerPoint presentation on the proposed amendment for Section 812 of the Land Development Ordinance.

Administrator Christie mentioned that, because of the rules in place with electronic public hearings, Council will take no action today, and public comments will be accepted until 12:00 p.m., Friday, November 13, 2020.

Council Members asked questions and expressed concerns with Attorney Mr. Oast, Jr. and Attorney Sharon Alexander. With no further discussions, Council Member Carpenter made a motion to go out of the public hearing, seconded by Council Member Coletta. The vote carried unanimously.

Village Council will take action on this public hearing on November 17, 2020, 9:30 a.m., via Zoom.

Public Hearing – Sign Control Ordinance amendments

Council Member Gooch made a motion to go into the public hearing, seconded by Council Member Posey. The vote carried unanimously.

Administrator Christie explained per Article X, Section 1001, of the Village of Flat Rock Sign Control Ordinance, the Village Council may enact any amendment to this ordinance by a majority vote at any meeting of the council after a public hearing on such amendment.

Administrator Christie gave some background by stating the review of the language of our current sign ordinance began in February 2020. Research of sign ordinance law was received and discussed with the Mayor and Village Attorney prior to bringing any proposed language before the Planning Board in March. The April & May meetings were cancelled due to COVID-19 restrictions. In June, further review of changes were made and discussed in July when they were sent to Village Council. The comments received from Council were reviewed at the August meeting and in September the proposed amendments were again sent to Council for review and comment. Additional suggestions from Council were made, sent to the Village Attorney for review, and were incorporated into the document presented today.

Administrator Christie pointed out that some significant changes to the language of the Banner definition (page 4) were made. At the suggestion of the Village attorney, the size limitation for banners was also included in the definition of banner.

The definition of One-time event (page 5) was changed with language removed. There has been some concern noted by the Village Attorney about possible constitutional problems with removal of this language. Council Member Coletta explained after speaking with Attorney Sharon Alexander, it was decided to keep the full definition of One-time event, so no language to be removed.

In Section 602 (page 8) under Sign Prohibited, feather flags have been added by the Planning Board to this language. The Planning Board had difficulty deciding this change and in fact considered placing feather flags with banners. The vote to place feather flags under prohibited signs resulted in a tie by the Planning Board. Ultimately, it has been left to Council to determine the decision regarding feather flags.

In Section 603 (page 10), note language concerning banners and temporary signs. The description of the right-of-way, previously only seen in Section 900, is now also included here under temporary signs.

Also recommended is the inclusion of the language of North Carolina General Statute 136-32 (page 11), which references the requirements for the regulation of signs in the NCDOT right-of-way. It was initially recommended to add the text as an appendix. Concerns about causing

confusion with our sign control ordinance coupled with the fact that state statutes are constantly being amended led to the decision to simply make a reference to it.

The Planning Board voted at its September 8, 2020, meeting to recommend approval of the proposed amendments.

Village Clerk Parker and Administrator Christie reported no public comments were received via email.

There were concerns expressed regarding feather flags that will be discussed further at the November 17, 2020, 9:30 a.m. Zoom meeting. Council will take action on the proposed sign ordinance amendments at that meeting.

With no further discussions, Council Member Carpenter made a motion to go out of the public hearing, seconded by Council Member Gooch. The vote carried unanimously.

Public Comments – None

Agenda Approval/Changes

Under *Old Business – Item #8, Stream Revitalization, Item #9, Welcome Center Courtyard* was added to the agenda. Council Member Carpenter made a motion to accept the agenda as amended, seconded by Council Member Gooch. The vote carried unanimously.

Consent Agenda

1. The Consent Agenda consisted of the following:
 - September 28, 2020 – Agenda Workshop Minutes
 - October 8, 2020 – Council Meeting Minutes
 - October 8, 2020 – Park Workshop Minutes

Special Reports

2. Administration – Village Administrator Christie

Administrator Christie reviewed the October 2020 zoning report dated November 5, 2020, and the Village Administrator report dated November 5, 2020 (see attached reports).

3. Park Update – Council Member Carpenter

At the agenda meeting Council Member Carpenter reported Mr. Steve Buchanan, NCDOT Engineer, agreed with the Village's request to change the speed limit on a section of Highway 225 to 25 mph. Mr. Buchanan will send the documentation to Administrator Christie.

Council Member Carpenter gave the following update:

Park Commission met on October 22, 2020.

The Park Commission discussed the creation of a formal Facility Usage Fee Waiver. This was deferred until the next Park Commission meeting for further discussion.

Pollinator Garden arbors have been completed.

Discussed park coverage during Ranger John Wilkerson's vacations. Several committee members and Village Council members volunteered to step up.

The Park Commission will next meet on Thursday, November 19, 2020 (one week early due to Thanksgiving). It was decided to skip a December meeting unless something urgent comes up in the meantime.

The final yoga in the park session for 2020 was held October 31, 2020. This program has proven to be tremendously popular and will be held again next year as soon as the weather turns warmer.

The final Sit, Step, Sing gathering for this year will take place on November 12, 2020.

The Park Commission pointed out that an amphitheater was included in the original plan for the park but was later removed from the master plan. The Park Commission is asking if the Village Council wants them to reconsider placing an amphitheater in the park. It was agreed for the Park Commission to discuss at their next meeting.

4. Foundation Update – Council Member Gooch

Council Member Gooch gave an update on the following;

Friends of the Park – has 84 charter members with a fundraising goal of \$85,000 for the fiscal year. As of October 31, 2020, approximately \$23,354 has been raised but does not include future pledges or monthly payments.

Yoga in the Park – the program for 2020 is complete with 510 registrants.

Fundraising – Giving Tuesday is December 1, 2020. The Foundation will be sending two end-of-the-year fundraising letters to donors that will also be included in the Village Record newsletter.

Dennis Flanagan added Friends of the Park has increased to 86 members, with 52 donors making annual contributions and 34 donors making monthly contributions. Friends of the Park fundraising is designed to raise funds to help sustain the park and to pay for programming within the park. Pardee UNC Healthcare is looking at expanding programming in the park for 2021.

The Foundation Board is looking at other fundraising efforts besides Friends of the Park. The Board adopted at their last meeting to move forward in two different areas of fundraising: 1) creation of a restricted endowment, the income to be used to benefit the park, and 2) creation of capital campaigns in order to raise capital for amenities, to be done with approval of Village Council.

The Foundation Board is requesting a joint meeting with Village Council to discuss their fundraising goals.

5. Transportation Update – Council Member Coletta

- There was no French Broad River MPO or Henderson County TAC meeting in October. There will be an MPO meeting in November.
- NCDOT is starting to receive funding for projects. The Village has received a contingent offer on the park property for the N. Highland Lake Road project. Council Member Coletta will contact Danny Shuler, the NCDOT right-of-way agent, to discuss that. Council Member Coletta will meet with John Wilkerson to make sure we have current estimates on possible drainage work for the cost-to-cure part of the offer.
- There should be a temporary fix for the hole caused by flooding on West Blue Ridge Road in the next few weeks, but there is no date yet for a permanent fix.

6. Tax Report – Mayor Weedman

Mayor Weedman reported that, as of November 9, 2020, the current fiscal year tax collections are at 44.4 percent with \$559,131.87 total collected (see attached report).

Old Business

7. Council Workshop – Council Member Coletta

Council Member Coletta suggested setting a date for a council workshop in early 2021. Mayor Weedman will work on dates, agenda, and will research facilitator names and possible off-site locations for availability. No date was officially set.

8. Stream Revitalization – Council Member Carpenter

Council Member Carpenter reported stream revitalization was discussed at the October 8, 2020, Park Workshop meeting. The Park Commission's proposal is to begin work on Dye Creek and the tributary in the second half of 2021-2022, but \$10,000 is needed this fiscal year for Myra Grant to begin the process of finding and applying for grants to help offset the cost of this work.

John Wilkerson mentioned since July 2018, approximately \$60,000 has been spent in repairing, improving, and drainage of the trails. In his opinion we could have saved 1/3, or it would not have been necessary to spend all of the \$60,000, if the creeks had been properly restored.

After discussions, the subject was deferred to the November 30, 2020, agenda meeting.

9. Welcome Center Courtyard – Council Member Carpenter

Council Member Carpenter reported this was discussed at the October 8, 2020, Park Workshop meeting. The Park Foundation has the potential to provide funding for all aspects of the courtyard. Hunter Marks can provide an artist conception for a cost of \$1,600.00. Following discussion, Mayor Weedman stated the Village Council needs to address the whole concept of the courtyard and decide whether or not to proceed. This was deferred to the suggested joint meeting with the Foundation Board and the Village Council on December 10, 2020, after the regular council meeting.

New Business

10. Historic Landmark Commission discussion – Council Member Dethero

Council Member Dethero reported the Historic Landmarks Commission met November 6, 2020, and elected Victoria Flanagan as Vice Chairperson. Victoria Flanagan had a phone conversation with Kristi Brantley, NC State Historic Preservation Office in Raleigh, to discuss the list of requirements in designating Saluda Cottages as a historic landmark. Council Member Dethero explained the designation process and that a new ordinance will need to be prepared. Mr. Harrison, owner of Saluda Cottages, has agreed to pay any legal fees for the process.

Other Business

11. Mayor – Council Reports

Council Member Dethero reported no new development on the Halfway Tree Mobile Home Park sewer line system. Dr. Eisenhower has agreed to the easement with the City of Hendersonville Water & Sewer Department. The City of Hendersonville Water & Sewer Department's next meeting will be in January 2021.

Council Member Posey reported Shred Day is scheduled for Saturday, November 21, 2020, 10:00 a.m. – 12:00 p.m.

Council Member Jamerson recommended keeping the Village's accounts with First Citizens, but Village Council needs to decide on obtaining fraud protection.

Council Member Coletta gave a public health update stating we are operating under a state executive order to end on December 4, 2020. The order reduces the inside capacity number down to 10 people or fewer (from 25 people). Since March 16, 2020, Henderson County has had 68 deaths from COVID-19, with 58 of those deaths associated with long-term care facilities.

Council Member Coletta mentioned a Flat Rock resident with extensive damage from the recent flooding may be applying for a grant through the USDA for help in funding her repairs. Any

grant would need to go through a government body. Mayor Weedman suggested that Council Member Coletta let the property owner know that Henderson County would have more staff availability to handle any grant business through the county planning department.

Public Comments – None

Adjournment

With no further discussions, at 12:07 pm, Council Member Gooch made the motion to continue the meeting to November 17, 2020, 9:30am, via Zoom. The motion was seconded by Council Member Coletta.

Michelle Parker, CMC
Village Clerk

Nick Weedman
Mayor