

BROADWAY TOWN COUNCIL

October 11, 2022

The Broadway Town Council met in regular session on October 11, 2022 in the Council Chambers of the Broadway Municipal Building. The following members were present: Mayor Timothy S. Proctor and Council Members Chad L. Comer, Leslie E. Fulk, Richard E. Fulk, Douglas W. Harpine, David L. Jordan and Beverly L. London. The following Planning Commission members were present: Eddie Long, Brenda Pultz, Travis Driver and Timothy Schmoyer. The following staff members were present: Town Manager Kyle O'Brien, Town Clerk Andrea Fulk, Director of Marketing and Development Cari Orebaugh, Town Attorney Matt Light, and Police Chief Douglas Miller. Also in attendance were Cody Doores and others of EmPower, Neil and Marcie Phares, Dr. Oskar Scheickl, John Bylar, Michael Amundson, Greg Turner, Jen Knick, and a number of other members of the public.

Mayor Timothy S. Proctor called the meeting to order at 7:00 p.m. with the Pledge of Allegiance followed by the invocation.

**Approval of Minutes and Bills:**

Richard E. Fulk moved, seconded by Chad L. Comer, to adopt the minutes of the September 13, 2022 session of Council and to authorize payment of bills in the amount of \$557,974.98. The motion was approved with the following recorded roll call vote:

Chad L. Comer	Aye	Leslie E. Fulk	Aye
Richard E. Fulk	Aye	Douglas W. Harpine	Aye
David L. Jordan	Aye	Beverly L. London	Aye

**Joint Public Hearing-Rezoning Request, Solar Farm, East Springbrook Rd.:**

Mayor Proctor stated that the first item of business is a Joint Public Hearing of the Council and Planning Commission to consider an application from EmPower Solutions for a rezoning request. He then requested that Town Manager Kyle O'Brien provide background on the request. Mr. O'Brien advised that the property is adjacent to Broadway High School and behind the John Kline Homestead. The property is zoned R5, which is Planned Unit Development and allows most uses with an approved plan. He further stated that an agreement between Rockingham County School staff and EmPower Solutions regarding the solar farm is under tentative agreement.

Mayor Proctor opened the Public Hearing and asked each person to state his/her name and address and noted that each speaker will be limited to three minutes. He then invited anyone wishing to speak in favor of the proposed request.

Dr. Oscar Scheickl, Superintendent of Rockingham School board stated that there has always been an interest in solar power for the schools but were never able to come up with a cost comparison to show the true savings for the school. The savings will be in how the land is handled with the property being purchased, given back to the school, and then leased by EmPower Solutions. There will still be the option of using regular grid power as Dominion Power will still be available to the school when needed. The School Board feels positive about this project and supports it.

John Bylar, President and CEO of Park View Credit Union stated that he appreciates the vegetation barriers and the sensitivity given to the John Kline Homestead. He has visited the area several times and feels this would be good use of this land and wanted to state that Parkview Credit Union has no objections to the solar farm.

Mayor Proctor then invited anyone wishing to speak in opposition to the request.

Michael Amundson, a resident at 311 Meyers Ct. stated he is opposed to the solar panels and has some concerns. One concern is about the chemicals used to make up the units. Some of which are cadmium

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and lead which are very harmful to the body and breaks down liver and kidney tissue. If one of the panels were to break it could get into the environment. Another concern is after the 20–30-year life expectancy of the panels how will the disposal be handled, and will the panels have to be stored, will there be a fee to take the panels to a disposal sight and who will be responsible for that. Mr. Amundson submitted documents supporting his concerns and they are included as Attachment A.

Greg Turner stated he has built single family homes and town homes throughout the Town of Broadway. He stated he feels this is a better monetary use for this property than solar panels. He further stated that he wants to see the Town prosper.

Having confirmed there was no one else in attendance wishing to comment, Mayor Proctor closed the public hearing. He then invited input from the planning commission.

Planning Commission Chairman Eddie Long asked if the Planning Commission members had any questions or concerns. Town Attorney Matt Light questioned if the land is still going to be conveyed to the school. Mr. Doores stated that is the plan, and Planning Commission member Travis Driver questioned if there is a height limitation to the vegetation barrier and how it is determined. Cody Doores of EmPower responded stating a software program called Helioscope is used for the shading restrictions.

After additional discussion, Chairman Eddie Long invited Planning Commission action. Brenda Pultz moved, seconded by Timothy Schmoyer, to recommend denial of the request. The motion was approved with the following Planning Commission vote:

Eddie Long	Aye	David Jordan	Aye
Timothy Schmoyer	Aye	Brenda Pultz	Aye
Travis Driver	Aye		

Planning Commission Council Representative David Jordan reported that the recommendation of planning commission is to deny the proposed solar farm. Having heard this recommendation Mayor Proctor then invited Council action.

David L Jordan moved, seconded by Beverly L. London, to accept the Planning Commission’s recommendation and deny the request to build a solar farm on the property that is adjacent to Broadway High School and behind the John Kline Homestead. Mayor Proctor asked if there were any comments, questions or concerns. Council Member Leslie E. Fulk stated this has been a decision that has brought on a lot of questions not only about the financial and health concerns brought forth today but also the history aspect of the property being located next to the John Kline Homestead. He further stated that he will support the Planning Commissions recommendation to deny the request. With there being no further comments, questions or concerns Mayor Proctor called for a vote by specifying that a vote of Aye will be a vote to deny the request to build a solar farm on the property. The motion was approved with the following recorded roll call vote:

Chad L. Comer	Aye	Leslie E. Fulk	Aye
Richard E. Fulk	Aye	Douglas W. Harpine	Aye
David L. Jordan	Aye	Beverly L. London	Aye
Timothy S. Proctor	Aye		

The Council then had a three-minute recess, prior to re-adjourning the public hearing.

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**Joint Public Hearing-Rezoning Request, East Springbrook Rd, Tax Map No. 51A3-(A) L8D.:**

Mayor Proctor stated that the next item of business is consideration of a rezoning request from Neil and Marcie Phares for property located on East Springbrook Rd. to the corner of Route 259. He requested that Town Manager Kyle O'Brien give a brief history on the request. Mr. O'Brien stated this property was part of the 2019-2020 annexation and a portion of this property was zoned B1 during the annexation while leaving the remaining portion that was not annexed zoned R1. He further stated the applicant is requesting that the zoning be changed from R1 to B1. He advised that the Town has notified all adjacent property owners and notice of the public hearing has been properly advertised. Mayor Proctor then invited comments in favor of the rezoning request.

Marcie Phares, the landowner stated she purchased this property in 2018. She built a house on a portion of the property and has sold that while keeping the remaining property. She further stated while she does not have a plan for the property, she does have an idea. She began by showing the Town Council a map and showing the areas that will not be usable such as where the power lines and underground caves are located. She then stated her idea would be to have a commercial area on the bottom for her business that will not be visible from the road, with 3 tiers, with decks on the back for possible Air BnB and store fronts on the front.

Town Attorney Matt Light stated that this property was between where the town was and where the land was being annexed. The eastern portion that was annexed was then rezoned B1 while the remaining western portion that was already in the town remained R1, this would change the R1 to B1 for that western portion.

Having confirmed there was no one else in attendance wishing to comment either in favor of or against the request, Mayor Proctor closed the public hearing. He then invited input from the planning commission.

After additional discussion, Chairman Eddie Long invited Planning Commission action. Travis Driver moved, seconded by Brenda Pultz, to rezone the western portion of the property located on Springbrook Rd with Tax Map No. 51A3-(A)- L8D. The motion was approved with the following Planning Commission vote:

Eddie Long	Aye	David Jordan	Aye
Timothy Schmoyer	Aye	Brenda Pultz	Aye
Travis Driver	Aye		

Planning Commission Council Representative David Jordan reported the recommendation of planning commission to rezone the western portion of Tax Map No. 51A3-(A)-L8D. Having heard this recommendation Mayor Proctor then invited Council action.

David L. Jordan moved, seconded by Chad L. Comer, to accept the Planning Commission's recommendation and adopt the motion as presented. With there being no comments, questions or concerns. The motion was approved with the following recorded roll call vote:

Chad L. Comer	Aye	Leslie E. Fulk	Aye
Richard E. Fulk	Aye	Douglas W. Harpine	Aye
David L. Jordan	Aye	Beverly L. London	Aye
Timothy S. Proctor	Aye		

A copy of the ordinance is included in the minutes as Attachment B.

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After a 3-minute recess Mayor Proctor readjourned the meeting.

**Old Business:**

No Report.

**Committee Reports:**

**Parks & Recreation Committee:**

Chairman Douglas Harpine asked Kyle O'Brien when the pavilion at the pool will be started. Mr. O'Brien stated there have been several emails and are waiting on the final civil engineering. He further stated that the pickle ball courts are being back filled to be playable this fall, and the lights will be in this spring.

**Finance Committee:**

No report.

**Personnel/Police Committee:**

No report. A copy of an activities report for the police department for the month of September is included in the minutes as Attachment C.

**Streets & Properties Committee:**

Chairman Chad L. Comer stated there are paving projects that will be starting in the near future.

**Utilities Committee:**

No report. A copy of the water production report for the month of September is included in the minutes as Attachment D.

**BHP:**

Council Representative Chad L. Comer stated Halloweenfest is October 27<sup>th</sup>.

**Planning Commission Report:**

No report.

**New Business:**

No report.

**Public Comment:**

Jen Knick of Broadway High School stated Homecoming is this weekend with the parade and game on Friday and the dance on Saturday. The parade will start at 5:00 on Friday but the route will be changed due to the bridge construction. She then stated the First Family Market Day will be on October 20,2022, families in need will be able to come in one night a month and will adjust depending on the demand. She concluded by stating they had a door decorating contest at the high school and the guest judge was Chief Doug Miller.

Ryan Kline a student at Broadway High School stated he is there for his government class but also as an Eagle Scout. He has spoken with Town Manager Kyle O'Brien about constructing a recycling box to have at Heritage Park. Mr. O'Brien stated that he has received his schematics and they will be finding a good location for the recycling box.

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Michael Amundson stated he volunteers for a food bank out of Corner Stone church and if there is someone in need please let them know the first and third Sundays the food bank will be open from noon until finished.

There being no further business, the meeting was adjourned.

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Timothy S. Proctor

Mayor

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Andrea M. Fulk

Clerk