

**BANNER ELK TOWN COUNCIL**  
**August 10, 2020**  
**MINUTES**

The Banner Elk Town Council met Monday, August 10, 2020 at 6:00 p.m. by remote meeting via an electronic conference due to the COVID-19 pandemic.

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

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

Others present: Avery Journal.

**Call Meeting to Order**

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting of August 2020 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.

**Approval of the Special Budget Meeting Minutes**

Mayor Lyerly asked for a motion to approve or amend the June 29, 2020 Special Budget Meeting Minutes. Council Member Tufts motioned to approve the minutes as written. Council Member Dunn 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 July 13, 2020 Regular Meeting Minutes. Council Member Dunn 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 Tufts motioned to approve the stated agenda. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

**Public Comments**

Mr. Ted Silver reported that the Banner Elk Police Department has a new mobile patrol unit, an electric bicycle. All officers were given helmets. He thanked Council, the Town Manager and Chief Kevin for the purchase of the bike. Mr. Silver noted that this will allow our police officers to be present along the Town's streets, the greenway and Town park.

### **System Development Fee Analysis Report**

Mr. Owen reported that this report is very in depth which is the reason the Town hired Dale Schepers with McGill and Associates to conduct the System Development Fee Analysis. He is hoping that following this agenda item, Council will call for a public hearing to be held next month. Mr. Owen introduced Dale Schepers. Mr. Schepers stated that he is a senior consultant with McGill and performs a lot of financial analysis from rate studies and feasibility studies so that Towns, Municipalities and utilities can make well informed decisions as they move forward. He reported that System Development Fees came out of a Supreme Court decision back in 2017. Mr. Schepers note that the North Carolina General Assembly in turn passed House Bill 436 which is very prescriptive in nature. Any impact fee or capacity fee must conform to the requirements in HB 436 to be valid. He stated that we are determining the value of the capacity the Town has in its water and sewer system as well as the future capacity the Town has over our planning period (a minimum of 10 years, a maximum of 20 years) in order to keep pace as development occurs. Mr. Schepers stated that this report documents the results of the approach, methodology and calculations for establishing the system development fees. He summarized the report. He also reviewed Banner Elk's System Capacity Availability Projection (Table 1.0.1) regarding available water capacity and water demand for the year 2019 and future years 2030 and 2040. Mr. Schepers reported that he is also working with Mr. Owen on the Town's Capital Improvements Plan which includes the addition of a future groundwater supply well. He noted that the Town will need to determine the costs, determine the values, then calculate the maximum charge that you can place on the water system and the sewer system and a conversion table for any other use that comes along. Certain tables will need to be used to calculate the costs. Mr. Schepers reported that System Development Fees' calculations have a five-year life span. Within five years the calculations will need to be "re-visited" and recalculate so that it is current. In addition, there is a three-year statute of limitations that states that if someone has paid a system development fee or a capacity fee, three years prior to the start of the System Development Fee Study, the law states there is a statute of limitations that apply which someone could challenge whether or not fees that were in place prior to HB 436 are reasonable and if they would like to contest those. Mr. Owen reported to Council that currently what the Town is charging for approximately what Mr. Schepers has in the report is \$4,996. We are in the realm of reality; the Town's rates are justifiable and it's below what the maximum we could charge. He noted that Council will need to decide where the Town wants this rate to be moving forward once we receive public input, have the public hearing and further discussion, potentially at next month's meeting. Mr. Schepers summed by reporting on *where do go from here*. He noted that the Town has started its 45-day public comment period which is a requirement. The report is published on the Town's web site. Mr. Schepers reported that the Town is required to solicit public comments and provide them with instructions on how to deliver written comments, which is also on the Town's web site. He noted that Mr. Owen did a really good job with getting this on the web site and getting it to work. Mr. Schepers stated that another requirement is that the Town needs to adopt the study/analysis. Following that, Council can set the fee. The fee has to be published as part of the Town's rate structure, fee schedule or by separate ordinance or resolution. Mayor called for a motion. Council Member VonCanon motioned to call for a public hearing at September's meeting. Council Member Bolick seconded the motion. There was a roll call vote. All were in favor. No one opposed.

### **Annual Tax Collector's Report**

Cheryl Buchanan summarized the Annual Settlement of Tax Collector (taxes charged and taxes collected for both the current and prior years). She noted that we were charged for collecting \$1,284,086.46 and we collected \$1,266,476.49 with a collection rate of 98.6%. Ms. Buchanan stated that the tax collector is required by State Statute to give an accounting of the completed tax year to Town Council. Ms. Buchanan presented to Council the Resolution Approving the Tax Collector's Annual Settlement for Fiscal Year 2019-2020 and Prior Years. Mayor Lyerly asked for a motion to approve the resolution. Council Member Tufts motioned to approve the resolution. Council Member Bolick seconded the motion. All were in favor. No one opposed.

Cheryl Buchanan stated that she is required to report to Council the List of "Underpayments and Overpayments" for Fiscal Year 2019-2020. She noted the total Overages of \$750.27. Ms. Buchanan reported that Scott Gould makes a tax payment every month in advance of an actual tax bill, which is recorded as a prepayment of his 2020 tax bill. The total overage amount will be applied to the taxes. She went over the underpayments and payments made as of June 30, 2020. She asked Council to approve the statement of Underpayments & Overpayments. Mayor Lyerly asked for a motion. Council Member Dunn motioned to accept the statement. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Cheryl Buchanan presented to Council the Resolution Directing Tax Collector Not To Collect Minimal Taxes For Tax Year 2020. She noted that "minimal" refers to all personal and real property taxes less than \$5.00. Mayor Lyerly asked for a motion. Council Member VonCanon motioned to approve the resolution. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Cheryl Buchanan reported that the last item needing Council's approval is allowing her as tax collector to collect the 2020 taxes. Council Member Tufts motioned to approve the 2020 Charge to the Banner Elk Tax Collector. Council Member Dunn seconded the motion. All were in favor. No one opposed.

### **Manager's Update**

Mr. Owen noted that included in Council's packets is the police report, planning, zoning and tax collection reports. He stated that if there were any questions regarding these reports to let him or staff know. Mr. Owen noted there is not a financial report at this time.

Mr. Owen reported that the water and sewer relief that the Governor gave to residential customers which Council agreed to do for both residential and commercial customers expired at the end of July. He noted that it is up to Council if Banner Elk will continue to offer relief to customers during this pandemic. Mr. Owen stated that the Town has not applied any late fees, late notices or cutoffs to customers since March. We do not have a large number of outstanding balances. Roughly 11 accounts are taking advantage of the opportunity to not pay. Mr. Owen asked Council for direction on how to proceed. After some discussion, Council Members agreed to send out reminders to late customers, apply late fees and offer payment plans to get caught up, but no cutoffs.

Mr. Owen stated that the Town continues to watch revenue issues related to sales tax. We are not currently seeing a huge impact on our sales tax revenue due to the number of people in Town and in the County. He noted that in regard to water and sewer revenue, there has been less usage due in part to Lees-McRae not being open.

Mr. Owen noted that Lees-McRae had roughly 200 students come back this past weekend and more will be arriving on Wednesday. He stated that Lees-McRae has their web site set up that indicates detailed plans and how they intend to operate their campus. The Town continues to work with them during this pandemic.

Mr. Owen reported that the Town received money from the County in response to the CARES Act to aid towns with COVID related expenses. Additional money/second round of money is expected and legislature is requiring counties to share it with towns. Mr. Owen noted that the County has hired a consultant to help them with the allocation of the monies (i.e. spending, tracking, etc.) and what funds can be reimbursed through FEMA.

Mr. Owen noted that there has been a scheduling change with maintenance. We've been on a split shift since April. The Town is now back to 1 shift, but still working in 2 work groups so employees are isolated from each other.

Mr. Owen reported that with the election coming up in November and the County using the Council Chambers, he noted his concerns about the size of the room and social distancing. Mr. Owen stated that with the large number of people in and out of the building, his intention is to not have staff present on election day. Although, we are not opened to the public, there will be at least 10-12 poll workers who will be utilizing our building included the restrooms, kitchen and common area. He noted that he is not comfortable with the staff being exposed on that basis. Council Members agreed that the Town should accommodate voters at Town Hall and that staff should not be present. Mr. Owen also reported that early voting will not be held at the Board of Elections but will be held at the County swimming pool in Newland, because of the larger area, from October 15 through October 31.

Mr. Owen again reported that in regard to the census, Avery County is number 100 out of 100 counties with the lowest census return rate. We have till the end of September. Time is running short for people to reply to it.

Mr. Owen shared a video of Police Chief Hodges taking a ride on the Police Department's new electric bicycle.

There being no further business, Mayor Lyerly asked for a motion to adjourn the August meeting.

At 7:11p.m. Council Member Bolick motioned to adjourn the August 2020 Town Council meeting. Council Member Tufts seconded the motion. All were in favor. No one opposed.

**Adjourn**

The Banner Elk Town Council meeting adjourned at 7:11 p.m.

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Mayor Brenda Lyerly

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Attested

Approved: September 14, 2020