

BANNER ELK TOWN COUNCIL MEETING
AUGUST 9, 2021
MINUTES

The Banner Elk Town Council met Monday, August 9, 2021, at 6:00 p.m. in person for Council and staff with public participation facilitated through remote communication using audio and video connections due to the COVID-19 pandemic.

Council Members present: Mayor Brenda Lyerly, Mike Dunn, Robert Tufts, and Charlie VonCanon. David Lecka was not physically present but joined via audio connection.

Staff present: Town Manager Rick Owen, Town Attorney Four Eggers, Zoning Administrator Cheryl Buchanan, Police Chief Kevin Hodges.

Although not part of staff, Banner Elk Fire Chief Tyler Burr was present.

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular Town Council meeting of August 9, 2021, to order.

Pledge of Allegiance

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

Invocation

Council Member VonCanon opened the meeting with prayer.

Public Hearing

Mayor Lyerly declared there were no items for a public hearing on this month's agenda.

Approval of the July 12, 2021 Minutes

With no changes noted, Robert Tufts motioned to approve the minutes as submitted. Mike Dunn seconded. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

Robert Tufts – yea

Charlie B. VonCanon – yea

David Lecka via audio – yea

The vote was unanimous, and the motion carried.

Approval of Stated Agenda

Mayor Lyerly asked if there was a motion to approve the stated agenda. Council Member Charlie B. VonCanon motioned to approve the stated agenda. Council Member Robert Tufts seconded the motion. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea
Robert Tufts – yea
Charlie B. VonCanon – yea
David Lecka via audio – yea
The vote was unanimous, and the motion carried.

Public Comment

No one was signed up for public comment at this time.

Consideration for Certification of a Petition for Contiguous Annexation

Town Manager Rick Owen said that Council has in their packets a petition for annexation of two (2) parcels located between the entrance of Bear Run and High Country Square. The lots total 5.200 acres and are currently zoned C-2 General Commercial. The parcel identification numbers are 1858-11-55-1575 and 1858-11-55-1299. The request for annexation is to make the property eligible for town water and sewer services. Manager Owen asked that Town Council direct staff to certify the petition for the September meeting.

Motion by Robert Tufts to direct staff to certify the petition for annexation. Council Member Charlie B. VonCanon seconded the motion. The vote was:

Mayor Lyerly – yea
Mike Dunn – yea
Robert Tufts – yea
Charlie B. VonCanon – yea
David Lecka via audio – yea
The vote was unanimous, and the motion carried.

Board of Election Contract for Municipal Elections

Manager Owen told the Council that the Board of Election had contacted him about approval of a contract for services to handle the Town's upcoming election in November. There is a 10% increase from the cost in 2019.

Motion by Charlie B. VonCanon to approve the contract for municipal elections to be held in November 2021. Second by Mike Dunn. The vote was:

Mayor Lyerly – yea
Mike Dunn – yea
Robert Tufts – yea
Charlie B. VonCanon – yea
David Lecka via audio – yea
The vote was unanimous, and the motion carried.

Request for Public Hearing - Rezoning Request

Zoning Administrator Cheryl Buchanan advised Town Council that she had received a request for rezoning. The property is located across the road from the Banner Elk Elementary. Kuester Real Estate is under contract to purchase the property from Todd and Shannon Hirschfeld. The property

is currently zoned C-2 General Commercial. The Kuester's are asking to change the zoning to M-U Mixed Use. The Planning Board reviewed this request and made a favorable recommendation for rezoning Based on potential uses for that neighborhood and the Banner Elk Land Use Plan.

Motion by Robert Tufts to call for a public hearing at the September meeting. Second by Charlie B. VonCanon. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

Robert Tufts – yea

Charlie B. VonCanon – yea

David Lecka via audio – yea

The vote was unanimous, and the motion carried

Request for Public Hearings – Consideration of Ordinance Amendments

Cheryl Buchanan stated that during a Board of Adjustment hearing there had been some confusion among the public about how to calculate lot sizes. Ms. Buchanan said she put it out on the list serve to see how others in the State handled this requirement in their ordinances. Ms. Buchanan said the response she received was good. The most common interpretation for Table 308-2 is that each single-family lot is calculated at 10,000sf for each single-family unit. If multi-family is being considered, then the calculation would be 10,000sf for the first multi-family unit and 4,000sf for each additional multi-family unit. Ms. Buchanan cited The Cottages as a prime example of how so many multi-family units could be placed on a parcel of property. Ms. Buchanan said the wording she has added to the existing ordinance doesn't change the numbers but clears up how lot sizes are calculated to deter any more confusion.

Susan Brown asked to speak and was recognized. Mrs. Brown asked if the calculations for impervious surfaces were supposed to be taken out of the parcel before lot sizes were calculated. Ms. Buchanan answered no; that the impervious surface calculations are for the entire parcel, not parts of it.

The second amendment is for Section 200 Definitions. Ms. Buchanan explained that there was a definition for impervious surfaces but not pervious surfaces. Ms. Buchanan said she added examples of materials to the impervious surface definition and came up with a pervious surface definition complete with examples. Both amendments are to clarify previous misconceptions and asked Council to call for a public hearing for these amendments.

Charlie B. VonCanon motioned to call for a public hearing at the September meeting for these two ordinance amendments. Seconded by Robert Tufts. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

Robert Tufts – yea

Charlie B. VonCanon – yea

David Lecka via audio – yea

The vote was unanimous, and the motion carried.

Annual Tax Collector's Settlement Report

Tax Collector Cheryl Buchanan stated that it was time to give her annual tax collections reports per North Carolina General Statute requirements. Ms. Buchanan said she would go over each report and asked Town Council to vote on them separately.

The first report was the settlement statement which showed a collection rate of 99.5%. Included with this report is a list of overpaid and underpaid taxes. Lastly, there is a resolution asking Town Council to accept her settlement of the 2020 taxes.

Motion by Mike Dunn with a second by Charlie B. VonCanon. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

Robert Tufts – yea

Charlie B. VonCanon – yea

David Lecka via audio – yea

The vote was unanimous, and the motion carried.

The second was the charge to authorize the tax collector to collect the 2021 taxes. Motion by Charlie B. VonCanon and a second by Robert Tufts. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

Robert Tufts – yea

Charlie B. VonCanon – yea

David Lecka via audio – yea

The vote was unanimous, and the motion carried.

The last request was for approval of a resolution directing the Tax Collector to not collect minimal taxes under \$5.00. Ms. Buchanan said that some of the taxes would just be pennies and that there were so few of them it didn't justify the cost of billing. Robert Tufts asked if the taxes were for \$3.00, would that roll over to the next year. Ms. Buchanan answered that no, they won't be billed at all. Ms. Buchanan states that this is something the Town does each year. Motion by Robert Tufts to approve the resolution with a second by Mike Dunn. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

Robert Tufts – yea

Charlie B. VonCanon – yea

David Lecka via audio – yea

The vote was unanimous, and the motion carried.

Manager's Update

Town Manager Rick Owen stated that the hazardous waste collection date for Avery County is set for August 28, 2021, from 9:00 am to 3:00 pm.

High Country Council of Governments is going to hold their dinner on September 10, 2021. Manager Owen stated that the RSVP date is August 27, 2021, if anyone is interested in going, please let him know.

Manager Owen reminded everyone that the next Town Council meeting will be held on Tuesday, September 14, 2021, instead of their regular date of Monday, September 13, 2021. The reason is that Monday is the golf tournament at Elk River.

Manager Owen said that the joint Community Picnic is scheduled for September 16, 2021. Manager Owen asked Town Council if they were still in favor of joining with Lees-McRae for this event. Council expressed positive agreement for this event. Manager Owen said that Lees-McRae College paid half, and the Town and TDA paid the other half equally.

Lees-McRae's Wildlife Center has contacted Manager Owen about continuing to use the amphitheater for their showing of wildlife to the public. They have had positive feedback and have enjoyed the interaction with the public. The request is to continue Saturdays through mid-October.

Manager Owen reviewed the status of the Historic Banner Elk School's construction project and Manager Owen stated that one of the first things that needs to be done is to begin work on the road interconnection to Culver Street. Mr. Owen said it would be good to get the road graded and a base of gravel put down so it could settle over the winter before paving it in the spring. Manager Owen said that the extension of the water line would run in conjunction with the road project. Manager Owen has asked Derek Goddard to put together the bid documents for the project so they can get them out to the public. Plans are for the work is to begin after the Woolly Worm Festival.

The last item is a request to increase the price of the bricks used in the Streetscape. Bill Dicks does the engraving and said the Town should up the price to either \$100.00 or \$125.00. Council was amenable to this request. Motion by Charlie B. VonCanon to approve the price increase to \$125.00. Seconded by Robert Tufts. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

Robert Tufts – yea

Charlie B. VonCanon – yea

David Lecka via audio – yea

The vote was unanimous, and the motion carried.

Police Chief Kevin Hodges stated that the upcoming weekend was move-in weekend for Lees-McRae students and advised that traffic may be a little congested. Chief Hodges said that a portion of College Drive and Lees-McRae Drive would be closed from 5:15 to 6:00 pm so that Doctor King could address the new students.

Police Chief Kevin Hodges stated that the Banner Elk and Beech Mountain Police Departments are jointly planning to hold their End of Summer Bash on Tuesday, August 31, 2021, at 6:00 pm, in the field beside of the Brick Oven at Beech Mountain. Food and interaction with the police departments along with a nerf gun course.

Banner Elk Fire Chief Tyler Burr spoke to planning an event on September 11, not fund raising, but to honor that date in American history. No firm plans to date but will advise once they do.

Closed Session

Motion by Mike Dunn to go into closed session at 6:35 with a second by Robert Tufts. The vote was:

Mayor Lyerly – yea
Mike Dunn – yea
Robert Tufts – yea
Charlie B. VonCanon – yea
David Lecka via audio – yea
The vote was unanimous, and the motion carried.

Back into Regular Session

Motion by Robert Tufts with a second by Charlie B. VonCanon to go out of closed session and back into regular session at 7:05 p.m. The vote was:

Mayor Lyerly – yea
Mike Dunn – yea
Robert Tufts – yea
Charlie B. VonCanon – yea
David Lecka via audio – yea
The vote was unanimous, and the motion carried.

Other Business

Charlie B. VonCanon mentioned that the jake brake sign across from the caboose is not working. Mr. VonCanon commented at how many times a day he hears it. A discussion about a thoroughfare around Banner Elk ensued and the increased traffic in Banner Elk.

Mask mandates were discussed for the future. No definitive decisions were made.

Robert Tufts gave an update on the Art on the Greene over the weekend. All his reports were good, and it was enjoyable. One incident happened on Sunday where one of the vendors was breaking down early and removed the weights from his tent. A gust of wind took the vendor and the tent; and he landed on the field with a concussion. He was taken by ambulance to the local hospital and then was transferred to Johnson City Medical Center. He was released that night and his tent was demolished. The vendor admits he was at fault and should not have done that.

Adjourn

The Banner Elk Town Council meeting adjourned at 7:20 p.m. with a motion by Charlie B. VonCanon and a second by Robert Tufts.

Mayor Brenda Lyerly

Attested

Approved: September 14, 2021