

**BANNER ELK TOWN COUNCIL MEETING**  
**NOVEMBER 14, 2022**  
**MINUTES**

The Banner Elk Town Council met on Monday, November 14, 2022, at 6:00p.m. in person for Council and staff with public participation. Remote viewing was offered through zoom.

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

Staff present: Town Manager Rick Owen, Town Attorney Four Eggers, Zoning Administrator Riley Pudney, Police Chief Kevin Hodges

**Call Meeting to Order**

At 6:00 p.m. Mayor Lyerly called the regular Town Council meeting of November 14, 2022, to order.

**Pledge of Allegiance**

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

**Invocation**

Council Member Charles VonCanon opened the meeting with prayer.

**Approval of October 10, 2022, Minutes**

Mayor Lyerly asked the Council to review and approve the minutes from the October 2022 meeting. With no changes made, Councilman VonCanon motioned to approve the minutes as presented with a second by Councilman Lecka. All were in favor.

**Approval of Stated Agenda**

Mayor Lyerly asked if there was a motion to approve the stated agenda. Councilman Lecka motioned to approve the agenda with a second by Councilman Dunn. All were in favor.

**Public Comment**

Mayor Lyerly opened the meeting to comments from the public who were not on the stated agenda. There were no comments made.

**Public Hearing- Gwaltney Properties**

Zoning Administrator Riley Pudney reminded the Council of a request to rezone tracts 1 and 2 in the Gwaltney Farms Subdivision. She did inform the Council that a few changes have been made to the request. The first change was that the applicant was no longer asking to rezone tract 2 to R-2, the request is now for tract 1. Secondly, the applicant has cut off a piece of the 10-acre tract to rezone rather than the entire property. She informed the Council that if it was approved, he would be asked to have an official survey completed to subdivide the property. The following comments were made by the public:

John Williams, a resident of Grey Fox Ridge, voiced his concerns. He stated that he does not want high density or commercial use in that area. He wants to preserve the beauty and tranquility of the property and fears a commercial rezoning would create a “megaphone effect” with increased noise, traffic, and alcohol consumption.

Charles Knipper spoke as the developer and applicant for the rezoning. He expressed that he does not want to develop the parcel into a high-density use, that his goal is to refurbish the barn and turn it into a wedding venue. He stated that he does not want to be an enemy to the neighbors and is trying to preserve the history of the tract. He ended by saying that the only way for him to save the barn is to have it rezoned, otherwise he will have to tear it down.

Mcnair Tornow, a resident of Fox Pointe, stated he was concerned about the area becoming commercial and overdeveloped. He expressed his concern over the increase of traffic and is opposed to commercial rezoning.

Todd Hudson is the POA president of the Grey Fox Ridge subdivision and stated he was here to hear the concerns and get a better idea of what was being asked. He had no comments for or against the rezoning.

Councilman VonCanon stated that he believes it is the job of the Town and Council to uphold the stewardship of the area and does not believe the current request is in line with being good stewards of the land.

Councilman Tufts agrees that the 184-corridor going up to Beech Mountain should be developed and allow for commercial activity. His concern is that the requested property is set back quite a way from the road and may not fit into the commercial corridor area.

With no further comments from the public, the public hearing was closed.

### **Rezoning Request-Gwaltney Farms**

Zoning Administrator Riley Pudney stated she had nothing further to add and will answer any questions the Council may have. Councilman Lecka believed that the request should be sent back to the Planning Board to allow for any changes that may help address their concerns. He stated he would like to have another recommendation from the Planning Board before voting and believes an agreement can be made. Councilman Lecka motioned for the request to go back to the Planning Board and was seconded by Councilman Tufts. The motion passed unanimously, and the request was sent back to the Planning Board.

Councilman Dunn verified with Attorney Eggers that no other public hearing would be required. Attorney Eggers stated that unless a substantial change has been made to the request, there would not be a need for another hearing.

### **High Country ABC Store Audit Presentation**

Town Manager Owen introduced Bonnie Betz to present the Financial Report. Mrs. Betz stated that it was a good audit and that they were in great financial health. She stated that they provided 12% of profits were expended for law enforcement and alcohol education. Another 9% of profits were distributed to the three Towns, which is a significant increase from the required 3%. She explained that their sales have increased and are expected to keep growing in the upcoming years.

Mayor Lyerly asked about Club 12 and what they do. Mrs. Betz explained that Club 12 provided resources to help in recovery such as AA meetings and literature.

No further comments or questions were made.

### **Elk Hill Out of Town Sewer Connection**

Town manager Owen explained that this request was for an out of town sewer connection behind Avery Rent All in a subdivision that has a private collection system that taps into the Town's system. He explained that since it is technically out of town, he wanted to get the nod of approval from Council to allow for the connection.

Mayor Lyerly asked if there was a way to annex them into Town. Town Manager Owen stated that he did not believe that would be allowed since it would be one single lot in an entire subdivision where no other lots are annexed. Councilman Tufts asked where they get their water from? Town Manager Owen stated that they have private wells for their water. Councilman Lecka asked if they would be billed

monthly for sewer, and he was told that they would be. Councilman Tufts asked where the Town's responsibility of the line ended. Town Manager Owen answered that the Town's responsibility only went to the point of connection with their private system, which is at the manhole at the road connection at 184, near Avery Rent All.

With no further comments, Councilman Lecka motioned to approve the connection and was seconded by Councilman Dunn. The motion passed unanimously.

### **Annexation Ordinance Adoption**

Zoning Administrator Riley Pudney explained to the Council that this request was just to finalize an already approved annexation with the State. She informed the Council that there are a few annexations that have been approved by the Council and have just not been completed and sent to the State. She told them that this was the final step in the process.

With no comments or questions, Councilman VonCanon motioned to adopt the ordinance and was seconded by Councilman Tufts. The motion passed unanimously.

### **Culver Street Change Order**

Town Manager Owen presented to the Council a change order for the Culver Street project and introduced Max with Blue Ridge Environmental Consultants to explain the changes. Max informed the Council that the changes were to get the project into a completed state so the next phase could begin. The changes included: Adding gutter drains to help with the flow of water, installing a raised crosswalk, adding lighting conduit, and repairing some existing storm drains in Culver Street.

Town Manager Owen told the Council that he does not have a bid yet and was looking towards the Council for approval to proceed with the Change order and bring the bid at their next meeting. There were no comments or questions from the Council, and they agreed to continue forward with the change order.

### **Request for Public Hearing-152.088 Cultured Stone Change**

Zoning Administrator Riley Pudney asked the Council to call for a public hearing to amend the definition of Cultured stone. The request is to remove "faux stone" from the definition, in hopes of clarifying and preventing any further confusion on the type of approved materials. The change will leave "cultured stone" as the only approved faux stone.

The Council had no questions regarding the request. Councilman Tufts motioned to call for a public hearing and was seconded by Councilman Dunn. The motion passed unanimously.

### **Manager's Update**

Town Manager Owen provided the Council with staff reports. He informed the Council of a request on behalf of North Carolina Amateur Sports for the Town to be the starting point for Mountain to Sea Bike Ride for 2023. He stated that the Town had previously been the starting point and will need to check with other entities such as the Fire Department and Lees McRae for their availability if the Council wants to move forward. Mayor Lyerly stated that the last time was a success and that the riders were very respectful and provided business to the local restaurants. Councilman Lecka believed it would be good publicity for the Town if the logistics allowed for the Town to host. Councilman Tufts asked Ted Silver, who attended on Zoom, what he thought of the previous event. Mr. Silver believed that it was a great event and opportunity for the Town. He stated that the riders would be in Town for one night and lodging would need to be figured out, hopefully with Lees McRae's help. Councilman Dunn asked if the event was on the same weekend of homecoming? The Council was not sure but stated that that could be an issue if the college could not be able to help with lodging. The Council stated they were in favor of the event and told Town Manager Owen to pursue the event if the logistics were worked out.

Secondly, Town Manager Owen informed the Council of the request from a citizen to donate two paintings to the Town as stated in a will. The paintings will come with a \$5,000 stipend to help with maintaining the frames and paintings. He expressed his concerns due to the fact that he has not seen the will and wants to know what the stipulations are for accepting the paintings. Town Attorney Eggers told the Council that they needed to be careful and consider the obligations that the Town may incur, and they need to know the wording of the Will before they proceed. Mayor Lyerly asked if the Museum would be a good place to display the paintings, and Town Manager Owen said that he can look into it. Councilman Dunn motioned to allow Town Manager Owen to accept the paintings as he sees fit based on the wording of the will. The motion was seconded by Councilman VonCanon and passed unanimously.

Lastly, Town Manager Owen brought forth a request from Sugar Mountain for the Council to consider adopting a resolution asking the State Legislature for authority to enforce regulating the appearance of single-family homes. He told the Council that he does not believe that such legislation would likely pass. Zoning Administrator Riley Pudney added that the Town of Banner Elk's majority of single-family homes are within subdivisions that have their own guidelines, and she believes that a resolution is not necessary. Mayor Lyerly stated that she believes the Town has bigger issues to worry about and does not think the Town should proceed. The rest of the Council agreed and voted unanimously to not consider a similar resolution.

### **Other Business**

Councilman VonCanon asked Town Manager Owen if the metal bridge behind the art seller had been damaged and if it could be repaired and moved to a different location. Town Manager Owen stated that he has not had a chance to look at it closely but believed it was badly damaged and fears it may not be salvageable.

Councilman Tufts asked about the Small-Town Christmas schedule. He was informed that the Town's tree lighting event will be Friday 12/2/2022 and the Chamber parade will be Saturday.

Lastly, Mayor Lyerly asked if the Town should consider holding their annual Holiday celebration with the Boards. Councilman Dunn and Councilman VonCanon voiced concern over Covid and the flu and believe that they should wait another year. The Council agreed to discuss it again next year.

With no further comments or questions, Councilman Lecka motioned to adjourn and was seconded by Councilman VonCanon. The motion passed unanimously, and the meeting was adjourned at 7:15 p.m.

---

Mayor Brenda Lyerly

---

Attested

Approved: