

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

The Banner Elk Town Council met on Monday, March 14, 2022, at 6:00 p.m. in person for Council and staff with public participation facilitated through in person and remote communication using audio and video connections due to the Covid-19 pandemic.

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

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

Also present was Fire Chief Tyler Burr and Assistant Chief Will Treen.

**Call Meeting to Order**

At 6:00 p.m. Mayor Lyerly called the regular Town Council meeting of March 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.

**Public Hearing**

- 1) Ordinance amendment: *Building Height in M-U Zoning District*  
No comments from the public.
- 2) Ordinance amendment: *Short Term Rental Ordinance*  
No comments from the public. Council Member Dunn asked how the ordinance would be enforced. Manager Owen answered that it is through Occupancy tax and is often complaint based. Both noted that there will be properties that they don't know are rentals and will come down to neighbors calling in to complain.
- 3) Rezoning Request: *Parcel 1858-05-29-2890*  
Manager Owen passed out an email from a concerned citizen in regard to the Post Office causing noise in the early hours of the morning (6:00 a.m.) and wished for it not to be rezoned. Council Member VonCanon stated that even if the parcel stayed residential, there would always be the risk of noise and that it should not impact their decision. Manager Owen also informed the Council that he has never received a noise complaint before today. Gail Draughon, the adjoining property owner asked Mr. Mosely, the applicator, who attended on Zoom to explain the project further. Mr. Mosely stated that the project would consist of creating new employee parking in the back and relocating the loading bay to the back of the building. He also explained that there would be a 2,500 sqft. addition on the side of the building. Town Attorney Four Eggers reminded the

Council that the rezoning request was not project specific and was a general rezoning from Residential to C-1P and could have any commercial structure that would be allowed in that zoning district.

**Approval of the February 14, 2022, Minutes**

With no changes noted, Council Member VonCanon motioned to approve the minutes as submitted. Council Member David Lecka seconded. The vote was:

Mayor Lyerly-yea  
Mike Dunn- yea  
David Lecka-yea  
Robert Tufts-yea  
Charles VonCanon- 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. Town Attorney Four Eggers requested the Council to amend the agenda to include a closed session. Council Member Mike Dunn motioned for to approve the addition to the agenda. Council Member Robert Tufts seconded the motion. The vote was:

Mayor Lyerly-yea  
Mike Dunn- yea  
David Lecka-yea  
Robert Tufts-yea  
Charles VonCanon- yea  
The vote was unanimous, and the motion carried.

**Additional Public Comment**

None.

**Approval of the Ordinance Amendments**

- 1) Ordinance amendment: *Building Height in M-U Zoning District* Council Member Mike Dunn motioned to approve the ordinance as written with a second by Council Member David Lecka. The vote was:

Mayor Lyerly-yea  
Mike Dunn- yea  
David Lecka-yea  
Robert Tufts-yea  
Charles VonCanon- yea  
The vote was unanimous, and the motion carried.

- 2) Ordinance amendment: *Short Term Rental Ordinance*. Council Member Charles Von Canon motioned to approve the ordinance as written with a second by Council Member Mike Dunn. The vote was:

Mayor Lyerly-yea  
Mike Dunn- yea  
David Lecka-yea  
Robert Tufts-yea  
Charles VonCanon- yea  
The vote was unanimous, and the motion carried.

**Approval of a Rezoning Request**

*Parcel 1858-05-29-2890* to be rezoned as C-1P. Council Member Mike Dunn asked Mr. Mosely if there would be a new driveway created off Banner Road. Mr. Mosely confirmed that there will be a new connection off Banner Rd and that it would not increase traffic and be strictly used for employee parking. Manager Owen reminded the Council the Rezoning should not be based on the plans of the Post Office, that the parcel can be anything allowed in the C-1P.

Council Member David Lecka motioned to approve the rezoning with a second by Charles VonCanon. The vote was:

Mayor Lyerly-yea  
Mike Dunn- yea  
David Lecka-yea  
Robert Tufts-yea  
Charles VonCanon- yea  
The vote was unanimous, and the motion carried.

**Request for Tax Release**

Zoning Administrator Riley Pudney explained to the Council that there was a duplicate bill in the system, which was brought to her attention by the property owner who received a letter of delinquency. Zoning Administrator Riley Pudney informed the Council that the owner has paid his taxes and is current on his account and asked for the Council to release the duplicate bill.

Council Member Charles VonCanon motioned for the bill to be released with a second by Robert Tufts. The vote was:

Mayor Lyerly-yea  
Mike Dunn- yea  
David Lecka-yea  
Robert Tufts-yea  
Charles VonCanon- yea  
The vote was unanimous, and the motion carried.

**Advertisement of Unpaid Taxes**

Zoning Administrator Riley Pudney provide to the Council a list of property owners that have yet to pay their 2021 taxes. According to General Statute, it is required to run an advertisement in the local paper of all unpaid taxes. Zoning Administrator Riley Pudney requested for the Council to approve the list so it can be advertised.

Council Member David Lecka motioned for the approval of the list with a second by Council Member Robert Tufts. The vote was:

Mayor Lyerly-yea

Mike Dunn- yea

David Lecka-yea

Robert Tufts-yea

Charles VonCanon- yea

The vote was unanimous, and the motion carried.

### **Presentation of Water and Sewer Capital Improvement Plan**

Manager Owen introduced Keith Webb from McGill to present the improvement plan that was started months ago. Keith explained to the Council that they examined the current state of the Town water and sewer system and listed which projects need to be completed in the next three to ten years. His recommendations were:

- The construction of a new well at a new location
- Updates to the wastewater treatment plant including a mechanical inorganic waste remover
- Build a secondary clarifier to help clean and treat the wastewater.
- Replacing a number of sewer lines including the outfall line near the mill pond. The Town has a few clay pipes that will need to either be replaced or expanded. The average life span of PVC pipe is roughly 50-75 years.
- Eliminating a pump station by running a line from the Vistas and updating the Crooked Creek pump station to increase the size (constant pressure pump station) and move it above ground.
- Improvements to storing the chemicals used to treat the water and even building a storage facility.
- Updating and additional building for Public Works.

Mr. Webb recommended sending in a fund application to the State for the May round. If we do not receive the funds in May, it rolls into the September application time. Manager Owen recommended scheduling an additional meeting to discuss the CIP plan so it may be adopted in April. Council Member Robert Tufts asked about the list on page 32 of the report and the dates listed next to some of the items. Keith clarified that those are of highest priority.

Manager Owen said the Town is being proactive with these projects and wants to begin planning on how to spend the needed amount of money. According to Manager Owen, the project list in the plans equals close to ten million dollars over a period of time.

### **Land Use Plan Update**

Manager Owen presented to the Council the land use plan survey and outline that Phil Trew and the Planning Board has been working on. Manager Owen introduced the survey to the Council who reiterated the same questions as the Planning Board, wanting to know how the survey will reach the public. Charles VonCanon recommended putting a QR code in the park, Mayor Lyerly asked if putting a survey in the water bills was an option. Manager Owen said he didn't believe

people would read the notice of the survey if it was in their water bill. The Council decided to have Manager Owen send out postcards with a reminder to take the survey.

### **Manager Updates and Staff Reports**

- Manager Owen provided the Council with monthly staff reports. One was the Zoning and Tax report and the second was the Police Department report. Staff is happy to answer any questions.
- Manager Owen updated the council on the rec plan. The COG has been working hard on a draft and a Rec plan will hopefully be provided next month
- Manager Owen informed the Council that there will need to be a budget meeting in which he would like to discuss the CIP Plan, which usually occurs on the last week in March. Manager Owen and the Council decided on March 28, 2022.
- Manager Owen informed the Council of two projects that will have impacts on the water and sewer infrastructure. He explained the Commercial/residential laundry service next to Hardee's Lane that will use roughly 3,000 gallons a day. The second project is the new Apartment complex across from the Banner Elk Elementary School which has 68 bedrooms (40 units) and is estimated to use 9,000 gallons of water a day.
- Fire Chief Tyler Burr updated the Council on the Puerto fire. He explained that the fire response went very well, and they used around 125,000 gallons of water. Fire Chief Burr thanked everyone who responded and helped with the call. Council Member Charles VonCanon thanked the Fire Department, EMS and all those who respond and help the Town.

With no further business on the agenda, Council Member Robert Tufts motioned to go into closed session with a second by Council Member Mike Dunn. The vote was:

Mayor Lyerly-yea  
Mike Dunn- yea  
David Lecka-yea  
Robert Tufts-yea  
Charles VonCanon- yea

The vote was unanimous, and the motion carried. Council began closed session at 7:10 p.m.

Council Member Mike Dunn motioned to come out of closed session with a second by David Lecka. The vote was:

Mayor Lyerly-yea  
Mike Dunn- yea  
David Lecka-yea  
Robert Tufts-yea  
Charles VonCanon- yea

The vote was unanimous, and the motion carried. Open Session reopened at 7:24 p.m.

### **Other Business**

Mayor Lyerly sworn in Riley Pudney as the Town's Zoning Administrator, Tax Administrator and Town Clerk.

Council Member Robert Tufts asked what the cost was to produce the Capitol Improvement Plan. Manager Owen believed it was \$10,000. Council Member Robert Tufts asked if the company would help them throughout the grant and implementation process, which Manager Owen answered that they would be. Council agreed it was worth the investment.

With no further business, the meeting was adjourned with a motion by Council Member David Lecka and seconded by Robert Tufts. The meeting ended at 7:29 p.m.

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Mayor Brenda Lyerly

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Attested

Approved: