

BANNER ELK TOWN COUNCIL MEETING
JUNE 13, 2022
MINUTES

The Banner Elk Town Council met on Monday, June 13, 2022, at 6:00p.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, and Charles VonCanon. Robert Tufts attended the meeting over Zoom.

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

Also present was Fire Chief Tyler Burr

Call Meeting to Order

At 6:07 p.m. Mayor Lyerly called the regular Town Council meeting of June 13, 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 May 9, 2022, Minutes

Mayor Lyerly asked the Council to review and approve the minutes from the May 2022 meeting. With no changes made, Councilman Lecka motioned to approve the minutes as presented with a second by Councilman Dunn. The motion passed unanimously.

Approval of Stated Agenda

Mayor Lyerly asked if there was a motion to approve the stated agenda. Councilman VonCanon motioned to approve the agenda with a second by Councilman Dunn. The motion passed unanimously.

Public Hearing for Annexation of 1859-0072-8633

Manager Owen reminded the Council that this property was located at 1260 Balm Highway and that the request had been certified by the Clerk. Councilman Dunn asked if the property owner was wanting both water and sewer services. Manager Owen informed the Council that as of right now, the owner is just wanting sewer services but has also shown interest in obtaining water service, but they have not made an actual request yet. There was no further comment from the public.

Public Hearing for 2022-2023 Fiscal Year Budget

Manager Owen presented the Budget packet to the Council and read a letter to the Council summarizing the Budget. Ted Silver, who attended the meeting on zoom, asked if the proposed budget accounted for any anticipated needs of the Town with Lees McRae's acquisition of the Grandfather Homes property. Manager Owen answered by explaining that the Town was not providing any maintenance or utility services to the property and does not foresee any expenditures for the Town in that regard. There were no further comments from the public.

Public Comment

Mayor Lyerly opened the meeting to comments from the public who were not on the stated agenda. No one from the public made any comments.

AMOREM

Manager Owen introduced individuals from the group Amorem, a Hospice care group to discuss their goals for having a facility in the High Country. Ann Marie Yates and Evalyn Pierce spoke to the council explaining their personal stories and how the Amorem group was created. They informed the Council that the closest Hospice care facilities are in Burke and Caldwell County. They have bought property off Archie Carrol Road in Boone and have begun construction on their two-building campus. The campus will be home to two buildings that will house both patients and staff. They provided the Council with packets containing information about Amorem and their project. They asked Council to get the word out to anyone who may be interested in helping fund the project. Their goal for their attendance at the meeting is to spread awareness about the project and the need for this facility in the area.

Land Use Presentation

Phil Trew with Council of Government introduced the Land Use Plan to the Council. Mr. Trew gave a brief overview of the plan, highlighting the public input survey and recommendations section. The recommendations for the plan were:

- Review Viewshed Development Guidelines
- Review Heritage District Overlay Regulations
- Review Tree Preservation Regulations
- Codify requirement for Traffic Impact Analysis
- Revise Zoning Ordinance to clarify Historic District
- Implement Water/Sewer CIP
- Implement Town of Banner Elk Pedestrian Plan
- Implement Town of Banner Elk Park and Recreation Plan
- Conduct improvements to the Historic Banner Elk School
- Hold formal, regular communication between Planning Board, Board of Adjustment, and Town Council.
- Allow for commercial development as requested along NC Highway 194

Phil asked the Council if they had any questions about the plan. Councilman Dunn asked for clarification on the demographic data and if it included Lees McRae. Mr. Trew answered that it did include the College in their calculations. He told the Council that he will give them a month to review the plan and will be back at the next meeting to answer any questions. He requested that the Council call for a public hearing to adopt the plan. Councilman Dunn motioned to hold a public hearing for July 11, 2022. The motion was seconded by Councilman Lecka and was passed unanimously.

Annexation Request, 1260 Balm Highway

No member of the Council had any further questions or comments regarding the annexation request. Councilman VonCanon motioned to approve the annexation request with a seconded by Councilman Dunn. The motion passed unanimously.

Annexation Request Parcel 1858-1047-8188 Public Hearing Request

Manager Owen informed the Council that the property does not have a 911 address and that it is the first lot on the left on Dobbins Road. There is a double wide mobile home on the property currently. The owner plans to build a second single family home after subdividing the lot. They

have an easement to run the water and sewer services to their property. With no further questions or comments, Councilman Lecka motioned to call for a public hearing. The motion was seconded by Councilman VonCanon. The motioned passed unanimously and the public hearing was scheduled for July 11, 2022.

ABC Store Alternate Board Member Appointment

Robin Dunn is up for reappointment for the ABC Board. Manager Owen stated that he had not actually ask Mrs. Dunn if she wanted to be reappointed, Councilman Dunn said she did wish to be reappointed. The reappointment will be for a three-year term. Councilman Lecka motioned to approve her reappoint. The motion was seconded by Councilman VonCanon and passed unanimously.

Call for Public Hearing for Ordinance Amendment: Mobile Food Trucks

Zoning Administrator Riley Pudney introduced an ordinance amendment regarding food trucks to the Council. The change will allow for food trucks used by a restaurant to remain on restaurant property overnight. This amendment will allow for Stonewalls and other restaurants to utilize and keep their food trucks on premise. Councilman VonCanon expressed concerns over the ordinance, explaining that the Blind Elk is not in compliance with the existing ordinance. He stated that their food trucks sometimes park in the back of the property on the gravel road when it is required to be parked on pavement. He also stated that the food trucks being parked in parallel parking spaces causes issue with cars not being able to pull in and out of the driveway. Mayor Lyerly also expressed concern on limited parking as well.

Zoning Administrator Riley Pudney reminded the Council that this request was for an ordinance update and their concerns are based on already codified material. She also informed the Council that the Town will begin to enforce the ordinance as it is written and not allow for much leniency. Councilman Dunn asked if the food trucks will be allowed to park over consecutive nights, and she said they would be. Councilman Dunn then asked if the Blind Elk bought a food truck, would they be able to keep it on their property? The answer is no because the Blind Elk is not zoned as a restaurant. Councilman Dunn asked if the ordinance defines what a restaurant is, and Zoning Administrator Riley Pudney answered that it is defined. Another concern was for special events and overnight parking for those events. Manager Owen informed the Council that for special events, the food trucks would be allowed to stay but not be in operation between 11:00 p.m. and 6:00 a.m.

With no further discussion, Councilman Dunn motioned to call for a public hearing. The motion was seconded by Councilman Lecka and passed unanimously. The public hearing was scheduled for July 11, 2022.

Budget Discussion

Manager Owen asked if the Council had any questions regarding the budget and informed them the next meeting to adopt the budget will be June 27th. No one on the Council had any questions.

Manager's Update

Town Manager Owen stated that staff reports were provided to the Council in their packets and that staff welcomed any questions. He informed the Council of the next budget meeting on June 27th. Manager Owen stated that the road connection project at the Historic Banner Elk School will be completed by July. Lastly, Manager Owen presented a \$49,000 change order for the project that included the burying of electrical conduit and a sewer line service extension. Mayor Lyerly asked if that amount was in the range of what he expected it to be. Manager Owen said it was and asked for the change order to be approved. Councilman VonCanon asked if the cable

could be pulled that far through the conduit, and Manager Owen told him he believed it could be and had faith in the professionals completing the job. With no further comments, Councilman Lecka motioned to approve the change order. The motion was seconded by Councilman VonCanon and passed unanimously.

Other Business

Councilman Dunn brought forth the issue of noise and the enforcement of the noise ordinance. He asked how it was enforced and when is it enforced. Manager Owen informed him that it is typically complaint driven and enforced after 9:30 p.m. Councilman Dunn spoke about the noise level at the Village Shops in the evenings and how it goes well passed 9:30 p.m. He informed the Council that he has had complaints from visitors regarding the noise. On the other hand, he believes the 9:30 p.m. cutoff may be to early and wishes for that to extend to possibly 10:30 p.m. He wishes for the Planning Board to discuss changing the ordinance to make it 10:30 p.m. Manager Owen informed him that the Noise ordinance does not fall under the Planning Board’s jurisdiction, that it would only require Town Council review. The Council can certainly ask the Planning Board for their thoughts on the matter.

Police Chief Kevin Hodges told the Council that the business owner who received complaints was delivered a copy of the ordinance and was warned about his violation. Manager Owen also stated that staff would be more proactive with enforcement. Chief Hodges stated that if more complaints are received, the business owner will be fined for each time they are in violation. He also told Councilman Dunn that it can lead up to a misdemeanor offense. Councilman Tufts recommended a possible change just pertaining to weekends being allowed to extend past 9:30 p.m. Councilman Dunn believes this may not be the best since some Mondays are holidays, and it does not consider long or holiday weekends. Manager Owen and Chief Hodges also stated that there are instances where a business owner can obtain a special event permit up to 8 times a year that will allow for them to exceed that time frame. Zoning Administrator Riley Pudney told the Council that she will take this to the Planning Board to get suggestions and recommendations.

With no further comments or questions, Councilman Lecka motioned to adjourn the meeting. With a second by Councilman Dunn, the motion passed unanimously. The meeting was adjourned at 7:33 p.m.

Mayor Brenda Lyerly

Attested

Approved: