

**BANNER ELK TOWN COUNCIL MEETING
AUGUST 8, 2022
MINUTES**

The Banner Elk Town Council met on Monday, August 8, 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, David Lecka, Charles VonCanon,, Robert Tufts, and Mike Dunn.

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

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular Town Council meeting of August 8, 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 July 11, 2022, Minutes

Mayor Lyerly asked the Council to review and approve the minutes from the July 2022 meeting. With no changes made, Councilman Dunn motioned to approve the minutes as presented with a second by Councilman VonCanon.

Approval of Stated Agenda

Mayor Lyerly asked if there was a motion to amend the stated agenda to allow for a closed session. Councilman VonCanon motioned to amend the agenda with a second by Councilman Lecka.

Public Hearing for Rezoning Request 110&120 Azalea Way

Councilman Tufts motioned to open the public hearing and was seconded by Councilman Lecka. Zoning Administrator Riley Pudney reminded the Council that this request was to rezone the property to mixed-use. This would allow for Mr. Accetturro to use the parking area for both residents of the houses and employees of the restaurants across the street. Caitlyn Miles is a resident that lives behind the parcel and is against the rezoning. She stated that trees have been removed and that her house has no privacy and/or buffer. Robert and Stephanie Jones also live adjacent to the property and are against the rezoning. They stated that there has been a higher amount of pedestrian traffic in their residential area. Mr. Jones asked if there would be a buffer of some sort in between the parking lot and other residential parcels. Zoning Administrator Riley Pudney answered that the lot would have to come into compliance with a parking lot, which includes a buffer. With no further comments from the public, this public hearing was closed.

Public Hearing for Rezoning Request 134 Main Street

Councilman Lecka motioned to open this public hearing and was seconded by Councilman VonCanon. Zoning Administrator Riley Pudney informed the Council that this was a request to

partially rezone the parcel next to the Perry House. The street front section is already zoned C-1, and the request is to rezone the middle portion up to the Perry House rear property line from R-2 to C-1. She reminded the Council that the back part of the parcel along Klonteska would remain Residential.

Robin Floyd who resides at 451 Klonteska is against the rezoning. Ms. Floyd is speaking on behalf of herself and her elderly mother. Her concerns include the look, noise, and feel of Banner Elk if the property were to be rezoned too commercial. She is also concerned about the increase of traffic it would bring.

Dave Smith who is representing the seller stated that he believes the buyer just wants the parcel to match the surrounding zoned areas.

Suzanne London who represents the buyer agreed with Mr. Smith and further stated that any development would not harm the residents of Klonteska and could even offer a beneficial noise buffer between them and Main Street.

With no further comments or questions, the public hearing was closed.

Public Comment

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

Rezoning Request 110 & 120 Azalea Way

Mayor Lyerly stated that she believed the Town badly needed employee parking. She asked the Zoning Administrator if a buffer would be required, which the answer was yes. Councilman Tufts and Councilman Dunn stated they were in support of requiring a buffer between the parking lot and residential areas. Councilman Lecka asked Zoning Administrator Riley Pudney what type of buffering would be required. She informed the Council that a mixture of approved trees and shrubs would be sufficient. Town Manager Rick Owen reminded the Council that any further development on that property would require a special use permit and a complete review from the Planning Board and Board of Adjustment. With no further discussion, Councilman Lecka motioned to approve the rezoning request and was seconded by Councilman Dunn. The motion passed unanimously.

Rezoning Request 134 Main Street

Mayor Lyerly stated that Councilman Dunn is recused from this vote. Councilman Lecka asked how big the rezoning piece was. Zoning Administrator Riley Pudney said she believed it was less than .5 of an acre. With no further discussion, Councilman Tufts motioned to approve the request and was seconded by Councilman Lecka. The motion passed unanimously.

Ordinance Amendment for Handicap Parking

Police Chief Kevin Hodges asked the Council for an amendment that would allow for the Police Department to enforce blocked handicap parking spaces and provide a fee as a penalty. Chief Hodges explained that it would allow them to penalize any vehicle, person or business that was blocking a handicap space without a placard. Councilman Dunn asked if that included trucks that were loading or unloading supplies? Chief Hodges answered that it would not, since those trucks were temporary and could easily be moved. Councilman Tufts asked if this amendment required a Public Hearing. Town Attorney Four Eggers stated that it did not since it was not in the Zoning Ordinance. With no other questions, Councilman VonCanon motioned to approve the amendment and was seconded by Councilman Lecka. The motion passed unanimously.

Police Department Fee Schedule Change

Chief Hodges informed the Council that the parking citation fee schedule has not been updated in fifteen (15) years and he would like to request tripling the existing fee schedule. Mayor Lyerly asked if the proposed fee schedule was in line with other Towns. Chief Hodges answered that it was and could even be on the lower side. Councilman Tufts asked how it compared with what Lees McRae charged. Chief Hodges stated that he did not know since they were a private entity. Councilman Dunn asked if this would include no overnight parking or timed parking areas. Chief Hodges stated that it would encompass all of Town parking areas. Councilman Lecka asked if the fees could be posted on the signs, and Chief Hodges said that they definitely could be. With no further comments or questions, Councilman Dunn motioned to approve the fee schedule change and was seconded by Councilman Tufts. The motion passed unanimously.

Annual Settlement and Statement of the Tax Collector

Tax Collector Riley Pudney presented the Tax settlement to the Council which included the settlement report, DMV fees and a list of over/under payments. She informed the Council that the Town had a 98% collection rate and was very pleased with that rate. Tax Collector Riley Pudney asked if the Council had any questions regarding the report, and none were stated.

Resolution to Approve 2021-2022 Tax Settlement & Minimal Collection Statement

Tax Administrator Riley Pudney informed the Council that NC General Statute required the Council to pass a resolution approving the previously presented Tax Settlement. Along with the settlement, she requested Council to also pass a resolution allowing her to not collect tax bills that were less than \$5.00. With no questions or comments, Councilman VonCanon motioned to pass both resolutions and was seconded by Councilman Tufts. The motion passed unanimously.

Charge to Tax Collector to Collect Current Year Taxes

Tax Collector Riley Pudney requested the Council to charge her as the Tax Collector to collect the Current 2022-2023 taxes on behalf of the Town. Councilman Tufts motioned to pass the charge and was seconded by Councilman Dunn. The motion passed unanimously.

Mobile Food Truck Ordinance

Zoning Administrator Riley Pudney presented the Council an amendment to the Food Truck ordinance. She stated that the changes were created in efforts with local businesses and food truck operators. Councilman Lecka thanked her and the Town for working with interested parties to create a solution that was beneficial to everyone involved. Zoning Administrator Riley Pudney explained that since the amendments were minor and a public hearing was held the previous month, the Council did not need to call for another hearing and could vote on the matter tonight. With no further discussion, Councilman Lecka motioned to approve and adopt the amended ordinance and was seconded by Councilman Tufts. The motion passed unanimously.

Manager's Update and Staff Reports

Town Manager Owen provided reports to the Council in their packets and stated staff was open to any questions. He informed the Council that the State road paving project was completed. The Culver Street project was in progress and that they will be working on the curb & gutter and binder coat next. He stated that the third Art on the Green event was successful despite rain. He also reminded the Council that the golf tournament was on September 26th and that they are still looking for teams to join. Lastly, he thanked Representative Dudley Green for working on a two (2) million-dollar appropriation to the Town for water and sewer improvements.

Chief Hodges provided the Council the traffic report from the speed limit sign that was across from Lees McRae on Main Street. He said it was in place for 18 months and saw 3.9 million cars pass it heading toward Elk River during that time. He was pleased to state that there were minimal ticket able offenses. Mayor Lyerly asked if it counted 18 wheelers or bikes specifically and he said it did not differentiate between vehicle types. Councilman VonCanon asked why he thought there was a 5% decrease in the vehicle count from previous years. Chief Hodges believed that higher gas prices and the reopening of other places could play a role.

The Council motioned to go into closed session at 6:51 p.m. and returned to open session at 7:15 p.m.

Other Business

Fire Chief Burr informed the Council that the Fire Department was sponsoring a one-woman musical from August 25th-27th. He also stated that they would be hosting the 2nd annual September 11th Remembrance Run on September 10th. The event will conclude with an open house to promote recruitment. Lastly, he informed them that the County is going through personnel changes and that their station could see a gap in coverage during the week.

Town Manager Rick Owen asked the Council if they wanted to continue with zoom meetings and public participation over zoom since the Governor's Executive Order/State of Emergency will be expiring before their next meeting. Councilman Lecka was in favor of stopping the broadcasting and recording of meetings. Councilman Dunn did not want to exclude those who are cautious but was in favor of reverting back to in person meetings. Councilman VonCanon said they could stop the zoom and revisit it if they received backlash from the public. Mayor Lyerly asked if Town Manager Rick Owen had enough feedback to decide and he believed that he did.

Zoning Administrator Riley Pudney informed the Council that Avery County had an error in their tax scroll and once she had the corrected scroll, tax bills will be sent out soon after.

With no further business, Councilman VonCanon motioned to adjourn and was seconded by Councilman Dunn. The motion passed unanimously, and the meeting was adjourned at 7:30 p.m.

Mayor Brenda Lyerly

Attested

Approved: