

**BANNER ELK TOWN COUNCIL MEETING  
DECEMBER 13, 2021  
MINUTES**

The Banner Elk Town Council met on Monday, December 13, 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, David Lecka, Robert Tufts, and Charles VonCanon.

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

**Call Meeting to Order**

At 6:02 p.m. Mayor Lyerly called the regular Town Council meeting of December 13, 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.

Town Clerk Cheryl Buchanan in her capacity as a Notary Public administered the oath of office to Mike Dunn and Robert Tufts as newly re-elected Town Council Members.

**Selection of Mayor Pro Tempore**

David Lecka asked who the highest vote getter was. Mayor Lyerly answered that she thought it was Mike Dunn. David Lecka motioned to nominate Mike Dunn as Mayor Pro Tempore. Seconded by Robert Tufts. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles B. VonCanon – yea

The vote was unanimous, and the motion carried.

**Public Hearing**

Due to a last-minute cancellation of the Planning Board on December 6<sup>th</sup> and the fact that they were not able to review the ordinance amendments that were advertised for the public hearing, the public hearing was tabled until the January 10, 2022, meeting.

### **Approval of the November 08, 2021, Minutes**

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

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles B. 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. Council Member Robert Tufts motioned to approve the stated agenda. Council Member Mike Dunn seconded the motion. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles B. VonCanon – yea

The vote was unanimous, and the motion carried.

### **Public Comment**

Susan Brown had contacted Town Manager Rick Owen before the meeting with some comments about the proposed public hearing on sidewalks. Mrs. Brown's comments were related to how sidewalks relate to the Heritage Overlay District and how important they are to the community. (See her attached comments). Chad Carpenter also asked to speak. Mr. Carpenter expressed concern for being able to "pay your way out of the rules" instead of having to put in sidewalks.

### **Annual Town Audit Report**

Misty Watson joined the meeting via Zoom. Misty Watson reported that the Town received a clean report and that the staff was very cooperative and timely with the information she requested.

The report revealed that the assets for the Town of Banner Elk exceed its liabilities at the close of the fiscal year by \$11,490,946 net, an increase of \$456,471 from 2020.

The governmental funds reported combined ending fund balances of \$3,602,992, an increase of \$335,169 from the prior year.

At the end of the current fiscal year, unassigned fund balance for the General Fund was \$2,224,804 or 108% of the total General Fund expenditures and transfers out for the fiscal year.

### **Approval of Ordinance Amendments**

This item was tabled until January 10, 2022.

### **Request to Call for a Public Hearing**

Zoning Administrator Cheryl Buchanan asked Town Council to call for a Public Hearing for the January 10, 2022, meeting to entertain an ordinance amendment pertaining to shipping containers as storage units. Robert Tufts asked if under Section C, was #2 and #4 the same. Ms. Buchanan said it was and that she would correct this. Charles B. VonCanon asked about Section B. Ms. Buchanan said that this was related to temporary containers being used for remodeling projects or construction projects and that they could remain for the duration of the project while it was active but must be removed once it is finished. Motion by Robert Tufts to call for a Public Hearing for the January 2022 meeting with a second by Charles B. VonCanon. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles B. VonCanon – yea

The vote was unanimous, and the motion carried.

### **Annexation Request – David and Jennifer Woods**

Town Manager Rick Owen advised Town Council that he had a petition for annexation for the lot between the old Hardees building and the High Country Square. Town Manager Rick Owen asked Council to direct staff to certify the petition for the January 2022 meeting. Motion to direct staff to certify the petition by Charles B. VonCanon and a second by Robert Tufts. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles B. VonCanon – yea

The vote was unanimous, and the motion carried.

### **Board Appointments**

Mayor Lyerly reviewed the appointments for the Board of Adjustment, stating that there are three whose terms are expiring. These are Ted Silver, Morgan Herdclotz and David Tate. Robert Tufts asked if they were willing to serve again and Zoning Administrator Cheryl Buchanan said yes, they had all answered that they would be happy to serve again. David Lecka motioned to approve the three Board of Adjustment members to serve for another term. Seconded by Charles B. VonCanon. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles B. VonCanon – yea  
The vote was unanimous, and the motion carried.

Additionally, there is one Planning Board member whose term is expired, and this vote was postponed.

### **Manager Updates**

- Town Manager Rick Owen announced that the Recreation Survey is still up and running and will be available until after Christmas.
- Manager Owen asked Town Council for permission to put the connecting road from the Historic Banner Elk School to Culver Street out for bids.
- Manager Owen announced that there are three (3) town positions that will be vacant, and he will be advertising for them. They are: Zoning Administrator/Tax Collector/Town Clerk, Public Safety Officer and Public Services Technician.

### **Closed Session**

Charles B. VonCanon motioned to go into closed session at 6:38 p.m. Seconded by Mike Dunn.  
The vote was:

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

Council returned to open session at 6:50

### **Other Business**

Council voted to approve Christmas bonuses for staff. A motion by David Lecka to approve \$500.00 for staff members and \$1,000.00 for the two department heads, police chief and public services supervisor, and town manager. Seconded by Charles B. VonCanon.  
The vote was:

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

Council voted to approve the manager to “buy out” accumulated comp-time that had been earned by staff due to vacancies in positions. A motion by Charles B. VonCanon to allow the town manager the discretion to purchase accrued comp time from both the police department and public services department. With the police department accruing 568 hours and the public services department accruing 209 hours of comp time and to allow the manager the discretion to determine the timing of payments and amount of time to purchase. Time being accumulated due to staffing

shortages. The motion was seconded by Mike Dunn.  
The vote was:

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

Council voted to approve the manager moving to purchasing cards through Bank of America as opposed to the current credit card system if deemed appropriate. Motion made by Mike Dunn. Seconded by Charles B. VonCanon.  
The vote was:

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

**Adjourn**

The Banner Elk Town Council meeting adjourned at 7:00 p.m. with a motion by David Lecka and a second by Mike Dunn.

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Mayor Brenda Lyerly

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Attested

Approved: January 10, 2022