

BANNER ELK TOWN COUNCIL MEETING
FEBRUARY 14, 2022
MINUTES

The Banner Elk Town Council met on Monday, February 14, 2022, 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 Von Canon.

Staff present: Town Manager Rick Owen, Town Attorney Representative Jonathan Green, Justin Hodges, Police Chief Kevin Hodges, and future Zoning Administrator Riley Pudney.

Also present was Fire Chief Tyler Burr and Assistant Chief Will Treen, Mark and Anne Winkelman.

Call Meeting to Order

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

Pledge of Allegiance

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

Invocation

Council Member Charles Von Canon opened the meeting with prayer.

Public Hearing

- 1) Ordinance amendment – Section 152.231 Shipping Containers
Charles Von Canon clarified the wording under (B) Number allowed, that on private property a person can have one if it is fully screened from public view. Council Member Von Canon asked if there could be more than one if they were screened from public view? Manager Owen said that is the way it is written.
- 2) Ordinance amendment – Section 152.028(B) and 152.029 M-I Setback Requirements.
No comments from the public.
- 3) Annexation Request – David and Jennifer Woods, *Parcel 1858-0054-2716*
No comments from the public.

Approval of the January 10, 2022, Minutes

With no changes noted, Council Member Robert Tufts motioned to approve the minutes as submitted. Council Member Mike Dunn seconded. The vote was:

Mayor Lyerly – yea
Mike Dunn – yea
David Lecka – yea
Robert Tufts – yea

Charles Von Canon – 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 Mike Dunn motioned to approve the stated agenda. Council Member Charles Von Canon seconded the motion. The vote was:

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

Public Comment

None.

Approval of Ordinance Amendments

1). Section 152.231 Shipping Containers. Council Member Robert Tufts questioned that the number that was in section (B) that Charles Von Canon brought to the Council’s attention could get out of hand. Council Member asked if there should be a limit put on it. Manager Owen explained how the conversation came about during the Planning Board meeting and suggested it may be a zoning enforcement issue and proposed waiting to see if a problem develops. Manager Owen said he would be happy to take this concern back to Planning Board if the Council felt this needed to be done. There was ensuing discussion of what constitutes “from public view” and it was suggested that this phrase be removed or that they would all be screened. Mike Dunn questioned how this would impact a temporary situation.

Council Member Charles Von Canon motioned to approve with the phrase “from public view” stricken from the text. Second by Council Member David Lecka. The vote was:

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

2). Section 152.028(B) and 152.029 M-I Setback Requirements. Council Member David Lecka motioned to approve with a second by Council Member Mike Dunn. The vote was:

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

3). Annexation Request. David and Jennifer Woods. Parcel 1858-0054-2716. Council Member Mike Dunn asked about the lot and if it included the old Hardees building. Manager Owen said no, it is the dirt lot between the Hardees building and High Country Square. Council Member Robert Tufts motioned to approve with a second by Council Member Charles Von Canon. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles Von Canon – yea

The vote was unanimous, and the motion carried.

Request for a Public Hearing for the March 14, 2022 Meeting

Town Manager Rick Owen said the Town has an application for rezoning of a parcel in town. The PIN is 1858-0529-2890. The parcel is between the Post Office and Gail Draughon. The owner is asking to rezone the parcel the same as the Post Office and then recombine the properties.

Council Member David Lecka motioned to call for a Public Hearing. Seconded by Council Member Charles Von Canon. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles Von Canon – yea

The vote was unanimous, and the motion carried.

Republic Services Contract Extension

Town Manager Rick Owen mentioned that the Town has a franchise agreement with Republic Services with a one-year extension. This is the one-year notice that if there is anyone out there who would like to enter into discussion with the Town, now is the time to do so. Motion by Council Member Charles Von Canon to accept the one-year extension with a second by Council Member Robert Tufts. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles Von Canon – yea

The vote was unanimous, and the motion carried.

Report for Unpaid Taxes

Mayor Lyerly told Council this was just a notification for those who have not paid their taxes and satisfies a statutory requirement of the Tax Collector. There is no action required.

Consider Audit Contract

Town Manager Rick Owen advised Town Council that the contract is from Misty Watson and it is the same as last year but includes the Yellow Book audit that was added last year to stay in line with new statutory requirements for auditing of the receipt of Federal funds over \$100,000. Motion to approve by Council Member Charles Von Canon and a second by Council Member Robert Tufts. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles Von Canon – yea

The vote was unanimous, and the motion carried.

Call for a Public Hearing – Recodification of Ordinances

Town Manager Rick Owen stated that this relates to the recent codification of the ordinance and in reviewing some projects the staff has found some pieces that may have been inadvertently omitted. Council would need to hold public hearings to re-adopt any missing ordinances. Council called for public hearings to be held on the following at their March meeting.

1). Building Height in the M-U Zoning District. Motion by Council Member Robert Tufts with a second by Council Member David Lecka. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles Von Canon – yea

The vote was unanimous, and the motion carried.

2). Short Term Rental Ordinance. Motion by Council Member Robert Tufts with a second by Council Member Charles Von Canon. The vote was:

Mayor Lyerly – yea

Mike Dunn – yea

David Lecka – yea

Robert Tufts – yea

Charles Von Canon – yea

The vote was unanimous, and the motion carried.

Manager Updates

- Town Manager Rick Owen said there were two staff reports on the desk as Council came in this evening. One was the Zoning and Tax report and the second was the Police Department report. Staff is always happy to answer any questions
- Town Manager Rick Owen said that he will be out of Town March 7th through March 9th, and he has asked the Planning Board to move their meeting from Monday, March 7th to

Thursday, March 10th. Manager Owen said Riley Pudney will have everything under control by then but he felt he would like to be present for the meeting.

- Town Manager Rick Owen said a pre-bid meeting for the road expansion for the Historic Banner Elk School had been held. Bids are out and the plan is to open them on Thursday, February 17th at 2:00 pm. Manager Owen asked Town Council to consider meeting to award the bid as quickly as possible. The bid has a 90-day completion date, and the Town would like the work completed by Memorial Day weekend. A meeting was set for Wednesday, February 23, 2022, at 5:30 pm. Town Manager Rick Owen asked that Council not adjourn tonight's meeting but recess it and reconvene this meeting to February 23rd.
- Town Manager Rick Owen asked Mayor Brenda Lyerly to give Council an update on the meeting with Mountain Electric and what they are trying to do in future and how power outages affect our area specifically. Mayor Lyerly said it was a good meeting and she feels they are addressing the problems and are trying to plan to replace components that are aging.

No closed session and the meeting was recessed with a motion by Council Member Mike Dunn. Seconded by Charles VonCanon. The meeting ended at 6:43 pm.

The Banner Elk Town Council reconvened at 5:30 on February 23rd to review bids received for the Culver Road extension project. All Council Members were present.

Derek Goddard with Blue Ridge Environment reviewed the bids with Council. It was recommended that Council accept the lowest responsive bidder for the project. The low bid was from M&M Construction with a bid of \$325,000.00. Council discussed the scope of the project as bid and the timing of completion.

A motion by Council Member Charles VonCanon was made to award the bid to M&M Construction with a contract to be approved by attorney Four Eggers. The motion was seconded by David Lecka. The vote was unanimous, and the motion carried.

The Council further discussed other portions of the historic school site plan and the timing of the completion. Council discussed with John Garner, M&M Construction, the opportunity for public input into the project, timing of the project and Town funds.

There being no other business the meeting ended at 5:55 on a motion by David Lecka and second by Robert Tufts. All were in favor.

Mayor Brenda Lyerly

Attested

Approved: March 14, 2022