

BANNER ELK TOWN COUNCIL
January 14, 2019
MINUTES

The Banner Elk Town Council met Monday, January 14, 2019 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

Staff present: Town Manager Rick Owen, Cheryl Buchanan, Lieutenant Orrie Smith and Attorney Four Eggers.

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting of January 2019 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.

Public Hearing -Rezoning Request

Mayor Lyerly stated that Council received a request to rezone parcel #1858-1554-0140 from R-2 to C-2. Cheryl Buchanan reported that the owner of this parcel is Ricardo Henriquez and that the property is recorded under Banner Village, LLC. She noted that the property is located on the corner of Banner Creek Road and Highway 184. Ms. Buchanan stated that he is requesting for this parcel to be rezoned from R-2 to C-2. She stated that additionally he owns another parcel which adjoins it and it is already zoned C-2. This parcel is also surrounded by local businesses that are zoned C-2. Mayor Lyerly asked if anyone had any questions or comments regarding this rezoning request. Council Member VonCanon asked that since this property is located outside of Town limits in which water and sewer are available, does it necessarily mean the property owner will get it if they apply and does he know the costs involved? There was discussion regarding commercial properties located along that area of Highway 184 and those who receive Town utility services. Mr. Owen stated that simply because the utilities are located in that area, it doesn't mean they have to be given to them. They would have to request annexation based upon what the Town has done in the past 8 years. He noted that with annexation the Town provides utility connections. The parcel is currently located outside of Town limits and if the Owner wished to request utility connections, it would require Council's approval. Currently the Council's policy has been to require annexation to receive utility connections. There being no further discussion, Mayor Lyerly closed the public hearing at 6:07 p.m.

Approval of the Minutes

Mayor Lyerly asked if there was a motion to approve or amend the November 2018 Town Council Minutes. Council Member VonCanon motioned to approve the minutes as written. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Approval of Stated Agenda

Mayor Lyerly asked if there was a motion to approve the stated agenda. Council Member Dunn motioned to approve the stated agenda. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Public Comments

There were no public comments.

Rezoning Request, Banner Village, LLC

Mayor Lyerly asked if Cheryl Buchanan had any further information to give Council before asking for a motion. Ms. Buchanan noted that the Planning Board recommends approval of this rezoning. Council Member Lecka motioned to approve the rezoning request. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Call for a Public Hearing, Ordinance Amendment

Attorney Eggers stated that this is a recommended ordinance amendment which was extracted from materials from the School of Government. The Americans with Disabilities Act requires municipal governments to grant reasonable accommodations for those who have disabilities and that needs to be re-evaluated in the context of zoning ordinances as well as building codes. Mr. Eggers noted that this proposed change is similar to a variance request; the variance is if there is an unnecessary hardship that relates to the property. Someone could apply to the Board of Adjustment for a variance. A reasonable accommodation relates to the user of the property rather than the property itself. Mr. Eggers stated that it is a procedural approach for evaluating the ordinances that would kick those matters to the Board of Adjustment for their evaluation. As it presently stands, such determination would be made at the staff level and is not subject to the more detailed evaluation and review by the Board of Adjustment. Council Member Tufts motioned to call for a public hearing at February's meeting for this Ordinance Amendment. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Discussion, Need for Board of Adjustment Member

Mayor Lyerly reported that the Town needs a new member for the Board of Adjustment. She noted that Joe H. Perry who has served on this board and on several other boards for the Town has tendered his resignation. She thanked him for his exemplary service to the Town. Cheryl Buchanan reported that the Board of Adjustment needs a regular ETJ member and also needs two alternatives (one in-town and one ETJ). She noted that ETJ members also have to be approved by the Avery County Commissioners. Mayor Lyerly reported that this issue is for information only and that no action required.

Consider Republic Services Solid Waste Management Agreement

Mr. Owen reported that the Town's current solid waste franchise is with Republic Services. He noted that back in 2010 the Town contracted with High Country Waste Management which was bought out by Republic Services and the Town has been operating under the agreement we had with High Country Waste Management for the past 8 years. Mr. Owen stated that back in June/July of 2018, Republic Services approached the Town and requested that the agreement be updated between the two parties with regards to legal issues, pricing, rate structure, etc. related to the agreement. He reported that after several months of review and study with Attorney Eggers and Republic Services, an agreement has been drafted which is presented this evening to Council. Mr.

Owen distributed a report related to the proposed increase in the fee structure. He noted that Tony Krasienko, manager at Republic Services, was in attendance for any further explanation. Mr. Owen reported that this franchise agreement would be for 3 years with a 1-year automatic renewal upon mutual consent and a 90-day termination notice. He noted that there has only been one rate increase over the past 8 years which occurred in 2017; a 3% increase. The rates that are being proposed this evening appear somewhat high percentage-wise compared to the old rates. The agreement also calls for annual rate adjustments based upon the CPI. Mr. Owen reviewed with Council the spreadsheet he prepared listing the services provided, current monthly fees, proposed monthly fees, the percentage of increase, how the increase looks monthly and yearly and the number of customers in each one of the classes. He noted that it will be the responsibility of Republic Services to provide the customers with a breakdown of any rate increase or changes on a yearly basis based on the CPI. Mr. Owen also noted that on the spreadsheet, the initials MSW stands for “municipal solid waste”, Rec stands for “recyclable” and EOW stands for “every other week”. Council Member Bolick questioned the annual rate increase which is tied to the Consumer Price Index. Mr. Krasienko reported that the company structures their contracts based on a variety of conditions. There are labor costs, insurance costs, fuel costs, etc. that go up each year and the company in turn ties the fee increase to the consumer based on the CPI. If the CPI is lower based on the economy and market forces, that would match with a lower increase to the consumer and opposite holds true. He noted that it would be harder to predict a fixed price increase based on a 3-year average. Mr. Krasienko noted that the Town gets a more economical price each year than trying to forecast it over a 3-year period. Council Member Dunn questioned the number of consumers/users and if it equates to any savings. Mr. Krasienko noted that for residential collection service, the number of consumers would have to double to see any savings per scale and the commercial pricing is right now below market. There was further discussion regarding the price increases, Consumer Price Index, the effect of the fee increase on the citizens and businesses in Town, etc. Council Member Bolick asked when the increase would go into effect. Mr. Krasienko noted that the notices will go out with the February bill and the increase would go into effect in March. Council Member Dunn asked whether a penalty would be imposed on someone not accepting the proposed rate increase. Attorney Eggers stated that as part of this franchise agreement there will not be two or three competing garbage companies in the Town picking up garbage. He stated that there is a civil penalty of some form noted in the Town’s Franchise Ordinance that could be assessed to either the property owner or other garbage company violating this ordinance. The Town is providing only one trash service company for the entire Town, within Town limits. Mr. Owen noted that the companies servicing the ETJ for trash services, their rates are substantially higher than those within the Town limits. Mayor Lyerly asked if the ETJ would also use Republic Services, could the rates be lowered because of more parties involved. Attorney Eggers reported that the Town does not have the authority to enact a Franchise Agreement within the ETJ. The ETJ is just going to be for zoning. The Town’s authority is just for the corporate limits. Mr. Krasienko further explained the recycling aspect of their trash services provided, their recycling facilities, the changes within the recycling market, the processing of the recyclables involved, etc. There being no further discussion, Mayor Lyerly asked for a motion. Council Member Lecka motioned to approve the Municipal Materials Management Agreement for a term of three years. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Thank Your Mentor Day and Mentoring Month Proclamation

Mayor Lyerly reported that January is National Mentoring Month. It marks the 18th anniversary of National Mentoring Month, an annual campaign to recruit volunteer mentors. She read the proclamation. Mayor Lyerly noted that this is a very good program which has a very powerful

effect on our young people. Council Member VonCanon motioned to accept the proclamation. Council Member Bolick seconded the motion. All were in favor. No one opposed.

Consider Tax Release

Cheryl Buchanan reported that this parcel is not in Banner Elk's tax jurisdiction. The Town is requesting it be removed and approving the request for a tax release in the amount of \$188.65. Council Member Tufts motioned to approve the tax release. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Historic Banner Elk School Project Updates

Mr. Owen reported that the Town receives several donations for the Historic Banner Elk School throughout the year. He noted that most recently Skyline/Skybest sent the Town a donation in the amount of \$874.25 out of their fund in which they support community projects.

Mr. Owen reported the gutter project at the Learning Center incurred damages due to the snow storm the Town experienced in December. Some gutters were torn off, ice guards and gutters were bent and while the gutter company was there, we had them do the repairs which amounted to approximately \$5,000. The Town will submit the damages to insurance and hopefully the Town will recoup some of the monies incurred from the damages.

Mr. Owen called upon Jo-Ann McMurray, president of the Banner Elk Chamber of Commerce. He noted she has several new ideas for the 4th of July celebration in Town and would like to present them to Council. Ms. McMurray reported that the Chamber will take over the Party in the Park from the Kiwanis this year. She noted that all the Chamber's plans involve the school property versus the Town Park due to the size of the stage, which is a rental, and the events to be held following the parade from 12:00 – 6:00 p.m. Ms. McMurray stated that there will be bands, food vendors, children's games, etc. Art on the Greene is the following day. However, the stage will be taken down and the grounds made ready for that event. There were discussions regarding weather, event parking, Kiwanis duck race in the park, etc.

Council Member Bolick reported that the gutter project for the Community Learning Center and Cultural Arts Center has been completed and the lighting project has been completed. The lights will eventually be placed on a timer (on at 5:00 p.m. and off at 8:00 a.m.) for security purposes. He noted that evening classes are held in the school and Ensemble Stage has their events in which lighting is essential for the parking area to make it more secure. Mayor Lyerly thanked Council Member Bolick for his continued work.

Manager's Update

Mr. Owen reported that included in Council Member's packets are the planning, zoning and tax collection reports, police report for November 2018 and Financial Summary Report for 5 months ending 11/30/18. Mr. Owen distributed the police report for December 2018 and the Financial Summary Report for 6 months ending 12/31/18. He stated that if there were any questions regarding these reports to let him or the staff know. He noted that also attached is a copy of the High Country ABC Board Meeting Minutes of October 18, 2018 and November 6, 2018.

Mr. Owen noted that an extension was needed for the Audit Report to include the post-employment benefit report that was required by the State. The report has been completed as well as the audit report. A presentation of the audit report may be given at next month's meeting.

Mr. Owen reported that the Town will be purchasing a new pick-up truck and compact excavator that Council approved of in this year's budget. He noted that he will be seeking loan proposals for these two pieces of equipment at next month's meeting. Mr. Owen stated that the truck is a replacement truck. He reported that the Town received four prices from different vendors for the compact excavator and chose the E35 Bobcat. Price was the first consideration, but research was also done in regard to specifications and a service agreement. The end price will be \$49,000; \$50,000 was in the budget. Mr. Owen stated that the base price was \$39,000. Add-on items were: 3 different size of buckets, an extended arm and a trailer for hauling the excavator. Mr. Owen noted that he purchased an additional item which was a 3-year, 2,000-hour protection plan which was a \$2,000 add-on.

Mr. Owen stated that budget workshops need to be scheduled for this year as well as a planning meeting. He noted that over the past few years, the planning meeting was typically held in March and the budget workshops were held in April, May and June. After discussions among Council Members, the planning meeting was scheduled for Saturday, March 23, 2019 at 8:00 a.m. until 12:00 p.m. The budget workshops were scheduled for Tuesday, April 30th, Tuesday, May 21st, and Tuesday, June 25th all beginning at 6:00 p.m.

Mr. Owen reported that he will be out of the office on Wednesday, February 6 through Friday, February 8 attending the NC City Managers Conference in Winston-Salem.

There was no need for closed session.

Other Business

There being no further business, Mayor Lyerly asked for a motion to adjourn January's meeting.

At 7:20 p.m. Council Member Tufts motioned to adjourn the January 2019 Town Council meeting. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Adjourn

The Banner Elk Town Council meeting adjourned at 7:20 p.m.

Mayor Brenda Lyerly

Attested

Approved: February 11, 2019