

BANNER ELK TOWN COUNCIL
July 13, 2020
MINUTES

The Banner Elk Town Council met Monday, July 13, 2020 at 6:00 p.m. by remote meeting via an electronic conference due to the COVID-19 pandemic.

Council Members present: Mayor Brenda Lyerly, Charlie VonCanon, Robert Tufts, Mike Dunn and Allen Bolick. David Lecka was not present.

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

Others present: Tom and Jo-Ann McMurray and Ted Silver.

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting of July 2020 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.

Approval of the Regular Meeting Minutes

Mayor Lyerly asked for a motion to approve or amend the June 8, 2020 Regular Meeting Minutes. Council Member Tufts motioned to approve the minutes as written. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Approval of Stated Agenda

Mayor Lyerly asked for a motion to approve or amend the stated agenda. Council Member VonCanon motioned to approve the stated agenda. Council Member Bolick seconded the motion. All were in favor. No one opposed.

Public Comments

There were no public comments.

Public Hearing: Annexation Request – Neekaytan and Sandra Sharma

At 6:02 Mayor Lyerly asked for a motion to open the public hearing. Council Member Tufts made the motion and Council Member Bolick seconded the motion. All were in favor. Council Member Dunn expressed his concern over the additional traffic that could affect Klonteska Drive if this annexation takes place. It would put the Town in a position where major road improvements would have to be made. Attorney Eggers stated that he and Mr. Owen discussed their concerns for the Town's requirements in widening the road, turn around areas for emergency vehicles at the

top of the road and providing water service and public utilities to this property. He noted that theoretically these could be resolved as part of an annexation agreement. Attorney Eggers stated that per staff recommendations, Council could take no action on this when it comes up on the agenda or if Council feels strongly enough that these concerns could not be overcome, Council could turn it down. If Council turns it down that would prohibit reapplication for a period of six months following Council's vote. There being no further discussion, Mayor Lyerly closed the public hearing at 6:08 p.m.

Public Hearing: Zoning Ordinance Amendment – Short Term Rentals

At 6:08 p.m. Mayor Lyerly asked for a motion to open the second public hearing. Council Member Tufts made the motion and Council Member VonCanon seconded the motion. All were in favor. Mr. Owen reported on a few changes that were not included in the copy of the ordinance that is in Council's packet. He noted that on page 16 of Council's packet, number 3, *On or after June 8, 2020*; that was the last Council meeting. It will change to *July 13, 2020*. Mr. Owen noted that on page 18, number 2 (Events), *capacity of greater than (x number)*; that will be changed to 10 which is the recommendation of staff. For example, if you had a home that housed 10 people and they wanted to hold a special event in that house, they would have to go through a permitting process to do that. Mr. Owen stated that below number 2, Events, there is a sentence beginning with *Note: 2*. It is a Planning Board action that needs to be taken out. Also, below number 4, there is also a sentence beginning with *Note: 4*. It is also a Planning Board action that will be deleted. These items are not part of the ordinance which Council is adopting. Mr. Owen reported that in a while Council will be entertaining a permit associated with this ordinance. Some of the requirements will take time to do and will also require Staff time. Mr. Owen asked Council to consider making an effective date (i.e. within 60 days of adoption). There was discussion regarding the \$200 application fee. There being no further discussion, Mayor Lyerly closed the public hearing at 6:15 p.m.

Annexation Request – Neekaytan and Sandra Sharma

Mr. Owen reported that initially he was under the impression that the Sharma's wanted to do single family lots and subdivide the property. One of his major concerns was taking on a subdivision of lots and having to provide services to them (i.e. road, water, sewer) and having undeveloped property that the Town would have to provide services for that has no tax basis associated with it. Mr. Owen noted that he had a conversation with George Doikos, who represents the Sharma's in discussions about the property. Mr. Doikos informed him that they were going to do multi-family on the property. Their intention was to build the project out and then either sell it or rent it. Mr. Owen stated that it changed his thoughts regarding the tax basis, but it did not change his concerns regarding the road, water, etc. Attorney Eggers clarified that once Council holds the public hearing and there is no action within six months the request then is considered to have died for lack of action and would require someone requesting annexation to file a new petition and start from the beginning. Council Members agreed that no action will be taken. Attorney Eggers noted that with no one making a motion for this agenda item, the issue is basically tabled. All Council Members agreed on "no action".

Consider Ordinance Amendment – Short Term Rentals

Mayor Lyerly stated that this ordinance amendment was discussed at the public hearing and that we need to determine the amount of the application fee. Attorney Eggers noted that first Council needs to consider adopting this ordinance amendment. Once it is adopted then Council can consider the fee amounts. Attorney Eggers stated that if Council wishes to adopt this amendment, Council will need a motion that includes the changes Mr. Owen brought forward at the public hearing as well as an effective date. The June 13th would need to be changed either to today or sometime in the near future. Council Member Tufts motioned to adopt the ordinance amendment and change the effective date to October 1, 2020. Council Member VonCanon seconded the motion. Council Member Dunn questioned the section on *Enforcement and Review*. How will the Town enforce it? Attorney Eggers stated that he anticipates that this will be complaint driven. If there are complaints those would be presented to the zoning administrator or the police such as individuals operating without a permit or in a case of someone in violation of this ordinance. Mayor Lyerly asked for a vote. All were in favor. No one opposed.

Consider Fee Schedule Amendment, Short Term Rentals

Council Member Tufts motioned to approve a \$200 application fee and a \$50 annual renewal fee. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Manager's Update

Mr. Owen noted that included in Council's packets is the Financial Summary Report for 12 months ending 6/30/20 (unaudited), the police report, planning, zoning and tax collection reports. He stated that if there were any questions regarding these reports to let him or staff know. Mr. Owen noted that also included in their packets is a copy of the High Country ABC Board Meeting Minutes of May 21, 2020 along with the High Country ABC Board Budget for Fiscal Year 2020-2021 and their Budget Ordinance.

Mr. Owen reported on the Historic Banner Elk School site plan. A few items are still being worked on. With the electrical plan, Brent Barry has made recommendations to the Town associated with the changes that Council suggested at the last review meeting (i.e. additional electric in the parking lot behind the school). He noted that regarding the underground tank, he is waiting to have someone come in to locate the tank and to do some survey work until the tank is permitted in the Town's name. It is still in the County's name. Mr. Owen stated that he received from Derek Goddard an updated version of the road connection so that Attorney Eggers can begin work on the deed for the easement and conveyance of the property to connect to Culver Street.

Mr. Owen reported that he received the draft of the System Development Fee Study from McGill and Associates. He hopes to distribute it to Council once a few changes have been made. Mr. Owen noted that the study does show the justification to the fees the Town currently charges. The Town is not charging more than we can justify by State Statute. Mr. Owen noted that work continues on the Capital Improvement Plan. This project was approved by Council and is also being worked on by McGill and Associates. He reported that this portion is taking longer due to COVID and our inability to meet in person and review the project.

Mr. Owen noted that the American Legal Ordinance Codification project is still being worked on.

Mr. Owen updated Council on the State and local issues related to COVID-19 pandemic. Mr. Owen reported that the Town received its first paperwork for our first request for expenditures to be refunded out of the money that has been allocated to the County. He noted that the Town has expenditures so far related to cleaning supplies, masks, signage, etc.

Other Business

Council Member Tufts asked about the minutes of the June 29th Budget Meeting. Mr. Owen stated that he will have them ready for approval at next month's meeting.

Council Member Dunn asked if the Town owned an electric vehicle charging station at the Eagles Nest marketplace. Mr. Owen noted that it belongs to Eagles Nest, but that in the Historic Banner Elk School site plan there will be a charging station.

There was discussion regarding the High Country ABC Store's revenue. Mr. Owen stated that the Towns own the store. If the store is showing a profit the Towns have leverage in the conversation of how much disbursement is given to the Towns.

Chief Kevin Hodges talked about his department and how the officers are dealing with the COVID pandemic and the public.

There being no further business, Mayor Lyerly asked for a motion to adjourn the July meeting.

At 6:40 p.m. Council Member VonCanon motioned to adjourn the July 2020 Town Council meeting. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Adjourn

The Banner Elk Town Council meeting adjourned at 6:40 p.m.

Mayor Brenda Lyerly

Attested

Approved: August 10, 2020