

BANNER ELK TOWN COUNCIL
October 12, 2020
MINUTES

The Banner Elk Town Council met Monday, October 12, 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, Allen Bolick and David Lecka.

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

Call Meeting to Order

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

Pledge of Allegiance

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

Invocation

Council Member Bolick opened the meeting with prayer.

Approval of the Regular Meeting Minutes

Mayor Lyerly asked for a motion to approve or amend the September 14, 2020 Regular Meeting Minutes. Council Member Tufts 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 for a motion to approve or amend the stated agenda. Council Member VonCanon motioned to approve the stated agenda. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Public Comments

There were no public comments.

System Development Fee (SDF) Discussion

Mr. Owen reported that this topic has been discussed over the past few months and last month Council accepted and adopted the System Development Fees Report prepared by McGill Associates. Out of this report the next action item for Council would be to set new fees for the Town's water and sewer connection fees. Mr. Owen noted that the report was to provide Council with the value of water and sewer system capacity as required by the NC General Statutes maximum. He stated that the report provided that the maximum connection charges the Town could charge are \$8.84 per gallon for water and \$11.35 per gallon of capacity for sewer. Mr. Owen noted that prior to this report the Town had two different fees for water and two for sewer. One was an impact fee and the other was a system access fee (each for water and sewer). He stated

that when comparing this report to our current fees we are charging for an Equivalent Residential Unit approximately 66% of the maximum per gallon cost of capacity that the report finds could be charged. Mr. Owen referred to the spread sheet provided in Council's packets which shows the current fee for a 3-bedroom house (400 gallons, 3/4" meter) water and sewer connection combined is \$4,996.00. The new System Development Fee Maximum for a 3-bedroom house is \$7,622.00 and the 66% of the New System Development Fee for a 3-bedroom house is \$5,030.52. Mr. Owen stated that a decision Council must make is whether to charge the maximum or charge any variation of the maximum. As Town Manager he does not recommend that the Town go lower than the current rates nor charge the maximum. He discussed future development in Town, residential and commercial usage, connection types, fees charged by other Towns in the area that have also had a System Development Fee Analysis and a range of different percentage rate fees. Mayor Lyerly asked if there were any questions. She then asked for a motion. Council Member VonCanon motioned to go with the 66% rate fee. Council Member Lecka seconded the motion. Council Members Bolick, VonCanon and Lecka voted in favor of the 66% rate fee. Council Members Dunn and Tufts opposed. Mayor Lyerly noted a 3-2 vote in favor and that the motion carried. Mr. Owen stated that the fee could be adjusted at any time.

Annexation Request - Petition Certification, 1194 Balm Highway

Mr. Owen reported that this agenda item is the Certification of Sufficiency of the application requesting a non-contiguous annexation. The Town Clerk has investigated and has certified the petition for annexation which is included in Council's packet. He noted that if Council wishes to proceed, a public hearing would be scheduled. From that point we would move forward with consideration for annexation. Council Member Dunn asked what percentage of the 11 acres can be annexed and what does the couple propose to do with the property. Mr. Owen stated that their initial intention is the home in front of the property to be connected to water and sewer. They do not have a plan for the rest of the property but perhaps in the future developing it into lots or cabins on the property. Mr. Owen noted that his interest if it goes forward to a public hearing is to recommend to Council that we only annex the house and a portion of the parcel that needs water and sewer at this time for two reasons. He reported that he believes it will be difficult to get water and sewer to the top of the parcel and the Town can only have a certain percentage of satellite annexation and he would hate to use 10 acres of undeveloped property if the Town may want to hold onto that 10 acres of allocation to provide to someone who is actually wanting to develop something. Attorney Eggers noted that if the Town does this, we would need to draw up a legal description for the area being annexed versus the entire 11 acres. Before the Town finalizes the annexation, we would want a surveyed legal description. Mr. Owen noted that the Town has approximately 36 acres left available for satellite annexation. After some discussion Mayor Lyerly called for a motion. Council Member Tufts motioned to call for a public hearing at November's meeting. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Tax Release Request

Mr. Owen reported that Avery County released the tax bill for Account #70999, Data Sales Co., Inc. in the amount of \$30.80 for property not in the County. It was personal property. Mayor Lyerly called for a motion. Council Member Lecka motioned to approve the tax release. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Consider Proposal for Geotechnical Services

Mr. Owen reported that Council is familiar with the issues involving the slope/hillside below the water tank located at the Vistas. He noted that the Town has discussed our concerns with engineers and property owners regarding the best way to ensure the safety and stability of the embankment. Following these discussions, it was determined to seek advice from a geotechnical engineer or soil engineer to take borings, soil samples, soil compaction, etc. in the embankment just below the tank. Mr. Owen stated he is presenting to Council a proposal for geotechnical services from S&ME, Inc., an Asheville company which has done a lot of work in the area. He noted that David Poore is familiar with the company and has worked with them in the past. The company did a site visit and presented the Town with a proposal of what they thought would be necessary to give us some comfort in what is there. As proposed the cost of the scope of work is \$13,500 which is a cost investment to the Town which will ensure that the Town will not have any long-term issues with the embankment. Mr. Owen stated that Attorney Eggers has read through the contract and there are a few things he feels should be amended in the contract. So, any action Council will take will be contingent upon these changes and reviewed by Attorney Eggers. There was discussion regarding time frame, soil conditions, recommendations following the study of the site (i.e. retaining wall), the cost involved, etc. Mr. Owen noted that this proposal for the scope of work described is the first step. Once the Town receives the report back then there will be discussions on how to proceed and who will pay for what. Mr. Owen stated that David Poore will certainly oversee the work and that homeowners of the Vistas will be notified of the testing and any work involved. Council Member Tufts asked what changes to the proposal is Attorney Eggers interested in. Attorney Eggers stated that the scope of work he did not change. He addressed the items that he requested be changed: responsibility and standing by their work, warranties, limitation to their liability, raising their liability policy and an indemnity clause. Council Member Tufts motioned to accept the proposal for geotechnical services upon Attorney Eggers final review and have the Town's engineer, David Poore, on site during the process. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Manager's Update

Mr. Owen reported that included in Council's packets is the police report, planning, zoning and tax collection reports. He stated that the Financial Summary Report for 3 months ending 9/30/20 will be emailed to Council following the meeting. He stated that if there were any questions regarding these reports to let him or staff know. Mr. Owen noted that also attached is a draft copy of the Planning Board Meeting Minutes for October 5, 2020 and a copy of the High Country ABC Board Meeting Minutes for August 20, 2020.

Mr. Owen stated that there has been much discussion about holding a Halloween event. In the past Halloween was celebrated on Town property. Regarding Halloween and COVID, Mr. Owen recommends that the Town not sponsor a Halloween event this year. He had discussions with the County and the Health Department and believes there is no good way to manage the number of children, parents and others who would show up for a type of Trunk or Treat event. Mr. Owen stated that Newland is holding a Halloween event on October 30th and Bella's restaurant at the Food Lion shopping center will hold an event on the evening of October 31st. He stated that the TDA will be participating in Halloween candy bags which will be handed out at the elementary

school and candy bags will also be handed out at Town Hall on October 30th. Council Members agreed that it is the right thing to do.

Mr. Owen reported that election day is coming up and the Council Chambers will be used by the Board of Elections along with the restrooms. Town Hall will be closed that day and better part of the following day until the premises can be cleaned. He noted that the Board of Elections will be paying for the cleaning before and after election day. Mr. Owen also encouraged early voting at the pool facility in Newland.

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

At 6:42 p.m. Council Member Lecka motioned to adjourn the October 2020 Town Council meeting. Council Member Bolick seconded the motion. All were in favor. No one opposed.

Adjourn

The Banner Elk Town Council meeting adjourned at 6:42 p.m.

Mayor Brenda Lyerly

Attested

Approved: November 9, 2020