

# **BANNER ELK TOWN COUNCIL**

**October 11, 2021**

## **MINUTES**

The Banner Elk Town Council met Tuesday, October 11, 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, David Lecka, Charlie VonCanon, Robert Tufts and Mike Dunn via Zoom.

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

### **Call Meeting to Order**

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

### **Public Hearing – Consider Contiguous Annexation Request. Parcels 185811551576 and 185811551299**

Mayor Lyerly opened the Public Hearing. Cheryl Buchanan reported that the Town received a petition for a contiguous annexation of two parcels of land located between High Country Square and the entrance to Bear Run. The property is approximately 5 acres and is zoned commercial. Mayor Lyerly asked if there were any questions or comments. There being no questions or comments, Mayor Lyerly closed the Public Hearing.

### **Approval of the Regular Meeting Minutes**

Mayor Lyerly asked for a motion to approve or amend the September 14, 2021 Regular Meeting Minutes. Council Member Lecka motioned to approve the minutes as written. Council Member Tufts seconded the motion. All were in favor. No one opposed.

### **Approval of Stated Agenda**

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

### **Public Comments**

There were none.

**Consider Petition for a Contiguous Annexation. Parcels 185811551575 and 185811551299**

Mr. Owen reported that all of the paperwork is in order and that Council has followed the proper procedure to consider the annexation. If approved by Council, Attorney Eggers will prepare the annexation agreement. Mayor Lyerly asked for a motion. Council Member Lecka motioned to approve the annexation subject to a signed annexation agreement. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

**Call for Public Hearing, Ordinance Amendments. Section 902 Commercial Campgrounds**

Cheryl Buchanan reported that the Planning Board felt the need to update the special use section that relates to commercial campgrounds and the potential for campgrounds in our area. The revised Section 902 is more detailed than the prior and addresses items such as trash, campfires, food storage, to name a few. Ms. Buchanan noted that it took the Planning Board three months to review and update and feels this section is a much better product than what it was and covers more details. Council Member VonCanon had a question concerning item (c) which addresses buffering and screening which would affect adjoining residentially zoned properties. There was discussion regarding buffering and taking away the view from property owners. Attorney Eggers stated that a variance could be applied for if there is a particular situation where there is no harm in not having a uniform buffer all the way around. After no further discussion, Mayor Lyerly asked for a motion. Council Member VonCanon motioned to call for a public hearing at November's Council meeting. Council Member Lecka seconded the motion. All were in favor. No one opposed.

**Tax Release Request**

Cheryl Buchanan reported that after Avery County sent out their tax bills, they realized the tax value for Dreyer's Grand Ice Dream (Tax Account #75162, Bill #2260) was incorrect and issued a release for a portion of their billing. Since Banner Elk works off of Avery County's valuation, the Town also had to adjust its value and issue a release in the amount of \$91.26. Council Member Lecka motioned to approve the tax release. Council Member Tufts seconded the motion. All were in favor. No one opposed.

**Discussion: Historic Banner Elk School Site Plan**

Mr. Owen reported that the Town has been working with Blue Ridge Environmental Consultants to prepare design plans for the Historic Banner Elk School site. Mr. Owen distributed the site plan as is currently proposed (page 1). He noted that a couple of years ago the Town was working with Derek Goddard and the project was moving along, but with COVID and concerns over financing, the project was put on hold. Mr. Owen stated last year the Town was working at acquiring property across Culver Road and the back of the school property behind the gymnasium. He noted that on page 2 the plan shows the site as it currently exists. He stated that there are three trees behind the gymnasium which are incredibly old and in poor health. Mr. Owen then turned to the 3<sup>rd</sup> page which shows the road connection, which is the first part of the project the Town wants to bid out and would like to have it completed this winter. He noted that what would be ideal is to remove the 3 trees and straighten the road through that area which also frees up some space closer to the building which would be used for parking. Mr. Owen asked Council to consider giving the Town permission to remove the trees and proceed with putting the plan out to bid next month. There was discussion among Council members regarding the three trees, the curved road versus straight,

cut-through traffic, raised cross walks throughout the entire project, etc. Mr. Owen stated that he will take these items before the Planning Board. He also noted that the Town is working on the water line from Culver Road to Shawneehaw which will be a great improvement for the water system and will tie back into Elementary Way. The Town is also designing a sewer line at the bottom of the empty lot because someday this lot will be developed. Mr. Owen stated that the Town met with Brent Barry and Mountain Electric regarding the power grid and burying the power lines in front of the building to the back. He noted that Derek Goddard is working on a bid document for the road from Culver that would include water, sewer and conduit for power out to Shawneehaw. This would not include any storm drainage. Mr. Owen stated that we discussed doing this project in three phases. The street connection would be the first phase. The Town is concerned with the pricing and the availability of materials. The next phase would be the parking behind the fire department and the parking along the street past the fire department. Mr. Owen feels the cost of this project could be a million to a million and a half. Everything the Town Council has done related to this project until this year's payment has been done through fund raising. All the renovations that have been done to the building and the payments to the County have been paid through fund raising. Mr. Owen stated that no one can deny that the cost for these improvements is also a public benefit to the Town. He is hoping that next month he will have bid documents to be approved by Council so that the Town can put it out to bid.

### **Manager's Update and Staff Reports**

Mr. Owen distributed the Financial Summary Report for 3 months ending 9/30/21 and the Public Services Monthly Report for September 2021 and noted that included in Council's packets are the police report, planning, zoning and tax collection reports. He asked that if there were any questions regarding these reports to let him know or staff know. Mr. Owen noted that also included in Council's packets is a draft copy of the Planning Board Meeting Minutes dated October 4, 2021, and the High Country ABC Board Meeting Minutes dated August 26, 2021.

Mr. Owen reported that the Town raised \$40,000 at the Historic Banner Elk School Golf Tournament which will go towards the debt payment on the school, roughly half of the total that is due. Mayor Lyerly thanked Rick and Nancy for all the work they did.

Mr. Owen stated that municipal elections are November 2<sup>nd</sup> and Robert Tufts and Mike Dunn are on the ballot unopposed.

Mr. Owen noted that the Woolly Worm festival is this weekend.

Mr. Owen reported that the Planning Board had a training workshop last month facilitated by the High Country Council of Governments which was very productive for all of us in attendance. We reviewed the statutory requirements of a planning board to the Town's ordinance requirements and also went over the Planning Board's role and statutory authority. Council will soon see recommendations and changes that will clarify their role.

Mr. Owen noted that there has been a lot of discussion on occupancy tax and the distribution of how much can be spent on different things. Right now, it is a 1/3 and 2/3 split. The Town can spend 1/3 on infrastructure related projects and 2/3 on advertising. Banner Elk had it switched for

a number of years. Attorney Eggers reported that occupancy tax is regulated by the State and those determinations and adjustments have to be done by the General Assembly. That is accomplished through the use of a local bill. Attorney Eggers stated that if the Town is interested in seeking a local bill, time is of the essence in contacting the Town's representatives to get added to a local bill and have it presented to the General Assembly at their next session. There was discussion about how to proceed. Attorney Eggers noted that when the General Assembly hears from elected officials it certainly carries more weight. He stated that one letter from the Town would be sufficient, but also a phone call to your State House Member and State Senator would go a long way to push it along. All Council Members were in favor of seeking a local bill. It was noted that Seven Devils, Sugar Mountain and Beech Mountain are also seeking a local bill to switch expenditures. There was also discussion about seeking a bill for the Town's Tree Ordinance. Mr. Owen stated that he will look into the tree ordinance.

Fire Chief Tyler Burr gave an update to Council. He noted that there was a good turnout for the race held on September 11<sup>th</sup> and they had a good reception from the Community. He stated that the department is nearing its inspection season (i.e., testing hydrants, etc.) which is required by the insurance company. We have to ensure that our fire district is squared away to the best of our ability.

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

At 6:56 p.m. Council Member Tufts motioned to adjourn the October 2021 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 6:56 p.m.

\_\_\_\_\_  
Mayor Brenda Lyerly

\_\_\_\_\_  
Attested

Approved: November 8, 2021