

BANNER ELK TOWN COUNCIL

September 14, 2021

MINUTES

The Banner Elk Town Council met Tuesday, September 14, 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, Mike Dunn, Charlie VonCanon and Robert Tufts.

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 September 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 Ordinance Amendments

a. Section 200, Definitions. Impervious and Pervious Surfaces

Mayor Lyerly opened the Public Hearing. Cheryl Buchanan reported that the Planning Board discussed giving further meaning and clarity to the words pervious and impervious in Section 200 of the Town Ordinance. New definitions were given to both along with a list of materials considered pervious and impervious.

b. Table 308-2 Density Requirements

Cheryl Buchanan stated that the Planning Board wanted to clarify the calculation of lots sizes needed for development. Attorney Eggers noted that this is not a change to how the Board of Adjustment has interpreted the ordinance historically. This is clarification to match previous interpretation. Mayor Lyerly asked if there were any comments or questions. Rick Owen reported that he did not receive any comments prior to the meeting. There being no comments or questions, Mayor Lyerly closed the Public Hearing.

Public Hearing – Rezoning Request. Parcels: 185815642977 and 185815644972

Current Zoning C2. Request for MU

Mayor Lyerly opened the Public Hearing. Cheryl Buchanan reported that this rezoning request consists of two parcels located across from the Banner Elk Elementary School on Orchard Lane. She noted that currently they are zoned C-2. The property is under contract and the owner is asking the zoning to be changed to MU (mixed use). Ms. Buchanan stated that the adjoining property

owners have been notified and the property was posted and advertised. 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 August 9, 2021 Regular Meeting Minutes. Council Member Dunn 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

Mr. Owen 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 which they want to develop and are requesting the water and sewer services from the Town. He noted that the petition has been certified by the clerk and that all the documents are in order. The Town has everything needed for Council to call for a public hearing, which is required to further consider the annexation request. Council Member Tufts motioned to call for a public hearing at the October 2021 Council meeting. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Rezoning Request – Current Zoning C2, Request for MU

Mr. Owen noted that this rezoning request was discussed in the required public hearing held this evening. He stated that notices have been sent to all adjoining property owners and the property was posted and advertised. Mayor Lyerly stated that all information is in Council's packet and the Planning Board has recommended approval. Council Member VonCanon spoke in favor of the rezoning and that it is good for the community. Council Member VonCanon motioned to approve the rezoning request. Council Member Tufts seconded the motion. Council Member Lecka questioned the property location. Mr. Owen noted that the property, two lots, is located across from the Banner Elk Elementary School, behind Flannigan's. There was discussion regarding traffic concerns and plans for the development of the property. Mr. Owen stated that this zoning district is conditional for special use, and everything planned will come back to the Planning Board and Board of Adjustment for consideration and approval, so traffic issues and the DOT connection will be considered also. Mayor Lyerly reported that we have a motion and a second in favor of the rezoning from C2 to MU. All were in favor. No one opposed.

Consider Ordinance Amendments

Mayor Lyerly reported that there are two ordinance amendments being recommended by the Planning Board. The first, Section 200, Definitions of Impervious and Pervious Surfaces and the

second, Table 308-2 Density Requirements. She noted that both were explained in the Public Hearing. She asked if there were further questions. Mayor Lyerly asked for a motion to approve the definitions. Council Member Lecka motioned to approve the definitions. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Mayor Lyerly called for a motion to approve the zoning amendment for Table 308-2 for density requirements. Council Member Dunn questioned Table 308-2. There was discussion regarding minimum setback requirements, lot sizes and relation to water and sewer services from the Town. Mayor Lyerly again called for a motion. Council Member Dunn motioned to approve the ordinance amendment for density requirements. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Manager's Update and Staff Reports

Mr. Owen distributed the Public Services Monthly Report for August 2021 and noted that included in Council's packets are the Financial Summary Report for two months ending 8/31/21, 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 September 7, 2021.

Police Chief Hodges reported that the second radar sign was installed on August 13th in front of the old Cannon Hospital. In a month, the Town has had a total of 260,820 cars pass that sign. He went over the average speeds in and out of Town, the number of cars coming in and out of Town on the two roads (Highways 184 and 194) and showed the graph with all these reports.

Mr. Owen reported that the road repair near Sugar Mountain should be completed today or tomorrow.

Mr. Owen noted that the police have increased their time patrolling the Town Park.

Mr. Owen stated that at last month's Council meeting there was a discussion regarding compressed air brakes. He noted that Chief Hodges did some research into how they work in different trucks (i.e. age of the truck). He also spoke with a local contractor who provided him with information regarding the use of compressed air brakes. Mr. Owen explained how the compressed air brake works. He noted that the Town's Ordinance does not allow unmuffled compression air brakes and the Town will continue to enforce the ordinance on unmuffled trucks. Chief Hodges also noted that he is working with his officers in identifying trucks that may or may not be muffled which can be seen on the side of the truck. There was also discussion about the enforcement of the Town's noise ordinance.

Mr. Owen reported that the Historic Banner Elk School Golf Tournament went very well. We had a great turn out, good weather and great community support. He noted that he does not have a figure of what was raised because of a few bills which need to be paid but feels confident that we met our expectations. Council Member Tufts along with all Council Members thanked Rick and Nancy for putting this all together.

Council Member Tufts questioned the property development going on at Turnpike East. Mr. Owen reported that the Town issued a driveway permit several years ago. The current work did not require permitting through the Town. He noted that David Poore inspected the road connection where the water runoff is coming from and there are obviously some erosion issues which the Town is trying to address. Mr. Owen stated that the ditch line is running uphill from that property. He noted that the Town is working with adjoining property owners to work on a solution to the runoff water issue.

Council Member Tufts inquired about an item on the Planning Board Meeting Minutes which involved the 1.51 acres along Highway 184 near the entrance to Dobbins Road owned by M&M Construction.

At 6:36 p.m. Mayor Lyerly called for a motion to go into closed session. Council Member Dunn motioned for Council to go into closed session. Council Member Tufts seconded the motion. All were in favor. No one opposed.

At 7:20 p.m. Council returned to open session.

Council Member Tufts reported that Art on the Greene held Labor Day weekend went very well. We had good weather, the customers were happy, and the vendors were happy. Mayor Lyerly noted that Kimberly has done a great job with these events.

Council Member Dunn asked if the Woolly Worm festival is a go. Mayor Lyerly stated that the committee said that there will be a festival this year, but if anyone feels uncomfortable, they should not attend. However, if Governor Cooper shuts things down again, it could change things. Mr. Owen noted that the Town Council could also certainly act. Council needs to decide soon since it is September. There was discussion about safety, it being an outdoor event, everyone racing a worm needs to wear a mask, the police department's opinion about having this event, getting enough volunteers to work the event, etc.

Cheryl Buchanan reported that this coming Monday she and Rick will be hosting a planning session with the Planning Board Committee. Items of discussion will be statutory requirements of a planning board to our ordinance requirements of a planning board so that they understand their role and statutory authority.

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

At 7:33 p.m. Council Member VonCanon motioned to adjourn the September 2021 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 7:33 p.m.

Mayor Brenda Lyerly

Attested

Approved: October 11, 2021