

**BANNER ELK TOWN COUNCIL**  
**May 10th, 2010**  
**MINUTES**

The Banner Elk Town Council met Monday May 10<sup>th</sup>, 2010 at the Banner Elk Town Hall for the regular scheduled meeting of the Town Council.

Council Members present: Mayor Tate, Mrs. Lyerly, Mr. Tufts, Mr. Phillips and Mr. Hahn. Ms. Draughon was absent.

Staff present: Town Manager John Mejaski, Chief of Police Bill Burleson, Town Attorney Chelsea Garrett and Finance Officer/Clerk Steve Smith.

Others present: Mari-Liis Smyth of the Avery Post, Charles and Penny VonCanon, Jamie Shell of the Avery Journal, Toni Cook, Bob Littleton, Rick Foster, Spencer Robbins, Bill Elder, Cliff Elder, Marsha McManus, Rick Gentry, Ted Silver, and Mike Halus.

**Call Meeting to Order**

Mayor Tate called the regular monthly meeting for May 2010 to order at 7:00pm.

**Pledge of Allegiance**

Mayor Tate led those in attendance in the Pledge of Allegiance.

**Invocation**

Mayor Tate opened with prayer.

**Public Hearing – Changes to Code of Ordinance Section 94.04 Nuisance**

Mayor Tate opened the public hearing at 7:05 p.m. and asked the Town Manager John Mejaski for an introduction to the topic. Mr. Mejaski stated that the changes reflect more of a clear matter of fact rather than judgment.

Mr. Ted Silver asked if there is a mechanism for the enforcement. Mr. Mejaski stated that, there is already one in place.

There was discussion between Council as how to define what is junk and what is art, as well as what an attractive nuisance is and is not.

There were no further comments from the public and therefore Mayor Tate closed the public hearing at 7:26 p.m.

**Approval of the Minutes of the April 12<sup>th</sup> and April 29<sup>th</sup> Special Meeting**

Mayor Tate asked Council for a motion to approve the minutes of the April 12<sup>th</sup> meeting of the Town Council. Councilmember Lyerly motioned to approve the minutes of both meetings. Councilmember Phillips seconded the motion. Being no discussion on the matter Mayor Tate called for a vote. Councilmembers Lyerly, Phillips, Tufts and Hahn were in favor of the motion. There were none opposed.

Mr. Rick Foster stated that he was not present at the regular scheduled meeting of the Town Council but noticed that the minutes indicate that he was.

Mrs. Lyerly amended her previous motion to strike Mr. Foster from the record as being present and to approve the minutes as corrected. Mr. Phillips seconded the motion. Mayor Tate called for further discussion being none Mayor Tate called for a vote. Councilmembers Lyerly, Phillips, Tufts and Hahn were in favor of the motion. There were none opposed.

### **Approve the Stated Agenda**

Mayor Tate stated that by request she would like to move agenda item nine, the report on the Bicycle Committee to item one. Mayor Tate asked for a motion to approve the agenda with the stated change. Mr. Phillips motioned to approve the minutes moving item nine to item one. Mr. Hahn seconded the motion. Mayor Tate asked if there was any discussion on the matter. Being none Mayor Tate called a vote on the motion. Councilmembers Lyerly, Phillips, Tufts and Hahn were in favor of the motion. There were none opposed.

### **Citizens Concerns**

Mayor Tate opened the Citizens Concerns portion of the meeting by expressing her delight that Mr. Spencer Robbins was in attendance. Mayor Tate turn the floor over to Mr. Robbins.

Mr. Robbins thanked the Mayor and stated how proud he is that Elk River Club and the Town of Banner Elk have always worked together and that there has never been an adversarial relationship between the two. Mr. Robbins stated that many of the Club members are concerned about the recent ETJ discussions going on and that many of those same Club residents were never notified about the ETJ process. Mr. Robbins asked the Council not to proceed with the ETJ until the Club members return in number for the summer months. Mr. Robbins stated that when he and his brother first started the Club they never wanted Elk River Club to be a burden on the Town and that they envisioned just the opposite and that is why he and his brother working with Mayor VonCanon donated the land for the park and Town Hall as a good gesture to the Town. Mr. Robbins spoke of the agreement between the Club and Town that resulted from the park donation that the Town would never incorporate the Club. Mr. Robbins stated that he feels that the regulations that the Club has on property use is adequate and that further zoning regulations are unnecessary. Mr. Robbins again asked Council to delay the vote on the matter of ETJ until the members were back. Mayor Tate thanked Mr. Robbins for coming and introduced Mr. Bill Elder.

Mr. Elder stated that he is against the ETJ. Mr. Elder stated that he and many others are farmers and that he sees no need for these controls on people.

Next up was Mr. Cliff Elder. Mr. Elder stated that the first time ETJ came up and passed, many people stopped talking and friends became enemies and these relationships were never mended and he did not want to see that happen again. Mr. Elder stated that there are a lot of folks that would be affected by this that, simply do not want nor think it is right for the Town to pass this measure.

Mr. Hahn motioned to amend the agenda once again, moving item one to item number two and moving item six to item one. Mrs. Lyerly seconded the motion. Mayor Tate asked for discussion, being none Mayor Tate called for a vote on the motion. Councilmembers Lyerly, Phillips, Tufts and Hahn were in favor of the motion. There were none opposed.

### **Extraterritorial Jurisdiction**

Mayor Tate opened the agenda item by stating that the Banner Elk Planning Board had placed the item on the Council's agenda to ask Council not to vote on ETJ this month and instead give the Planning Board more time on the matter. Mayor Tate asked Council for a motion to place ETJ on the July meeting agenda so that those whose property is affected and did not get notified could be properly notified. Mrs. Lyerly motioned to place the matter of ETJ on the July meeting agenda. Mr. Hahn seconded the motion. Mayor Tate asked for discussion of the matter. Mr. Tufts asked if the staff was fine with that. Mr. Mejaski indicated that would be fine. Mr. Hahn stated he saw no reason to push the matter and hoped that Council could come to a unanimous decision on the matter. Attorney Garrett stated that her understanding having not reviewed the list herself but after talking with the zoning administrator that notification to affected property owners was complied with. Attorney Garrett stated she doesn't want it to appear that improper notice was given in case it had been said that they did not get notified. Being no further discussion Mayor Tate called for a vote. Councilmembers Lyerly, Phillips, Tufts and Hahn were in favor of the motion. There were none opposed.

### **Report from Ted Silver Chairman Bicycle Committee**

Mayor Tate introduced Mr. Silver for the Bicycle Committee update. Mr. Silver stated that they had general discussion on a number of topics. Mr. Silver informed Council of the success of two Lees McRae College alumni in different bicycle races. Mayor Tate requested from Council a motion to endorse a resolution in support of May being National bike month. Mr. Tufts motioned to endorse the resolution. Mrs. Lyerly seconded the motion. Councilmembers Lyerly, Phillips, Tufts and Hahn were in favor of the motion. There were none opposed.

### **Utility Dashboard Presentation**

Mr. Mejaski presented to Council the utility dashboard a tool developed by the UNC School of Government to help managers and boards of water and sewer utilities evaluate their utility rate structure. The dashboard allows the user to compare where their utility rates are in relation to other utilities across the state. Mr. Mejaski stated that this is a follow up to the budget planning along with his monthly financial update. Mr. Mejaski stated that this will help Council see what he has been trying to stress for sometime, that our rates are borderline low and that we are struggling to meet the requirements of full cost pricing. Council interacted with discussion on the matters related to the utility dashboard presentation. Council took no formal action on the matter.

### **Re-Use Impact Fee**

Mayor Tate introduced the next topic on the agenda. Mr. Mejaski stated that this would allow the Town to collect impact fees if a property undergoes a change in use. Mr. Phillips motioned to institute a re-use impact fee for properties that undergo a change in use. Mrs. Lyerly seconded the motion. Mayor Tate called for additional discussion, being none Mayor Tate called for a vote on the re-use impact fee. Councilmembers Lyerly, Phillips, Tufts and Hahn were in favor of the motion. There were none opposed.

### **Permitting Alcohol in Public Ordinance Set Date for Public Hearing**

Mayor Tate asked Council for a motion to set the day for a public hearing on the matter of permitting alcohol in consumption in public. Mrs. Lyerly motioned to set the date of public hearing to be June 14<sup>th</sup>, 2010 at 6:05 p.m. the next regular schedule meeting of the Council. Mr. Tufts second the motion. Mayor Tate asked if there was further discussion needed, being none Mayor Tate called for a vote. Councilmembers Lyerly, Phillips, Tufts and Hahn were in favor of the motion. There were none opposed.

### **Planning Board Personnel Policy**

Mayor Tate introduced the Planning Board Personnel Policy to Council and asked Mr. Mejaski to further explain the policy. Mr. Mejaski stated that due to a recent situation in which one member went and a new member was instated that a clear method or procedure was need. After discussion between Council it was decided that this should not be just Planning Board but all boards and committees. Mr. Tufts motioned to approve the policy to include all boards and committees. Mr. Phillips second the motion. Mayor Tate asked if further discussion was needed. Being no further discussion Mayor Tate called for a vote. Councilmembers Lyerly, Phillips, Tufts and Hahn were in favor of the motion. There were none opposed.

### **State Debt Off-Set Program**

Mayor Tate asked Council for a motion to approve the resolution and memorandum of understanding, both of which are needed to start the program. Mr. Hahn motioned to approve both the resolution and memorandum of understanding. Mr. Tufts made a second to the motion. Mayor Tate called for discussion, being none Mayor Tate called for a vote. Councilmembers Lyerly, Phillips, Tufts and Hahn were in favor of the motion. There were none opposed.

### **Set Date for Public Hearing Fiscal Year Budget 2011**

Mayor Tate asked Council to set the date of June 14<sup>th</sup>, 2010 as the date for public comment on the fiscal year budget 2011 to be held at 6:15 p.m. Mrs. Lyerly motioned to approve the date for public hearing. Mr. Phillips provided the second. Mayor Tate called for discussion and a vote. Councilmembers Lyerly, Phillips, Tufts and Hahn were in favor of the motion. There were none opposed.

### **Aesthetics Report**

Mr. Mejaski stated that he has started a new program to clean up the Town. He stated that he has divided the Town into four quadrants and would be focusing on one quadrant at a time. Each Thursday the he would be going around to ask residents to fix problems on their property. Council took no formal action.

### **Manager's Update**

Mr. Mejaski updated Council on a number of issues.

### **Adjourn**

At 9:02pm Mrs. Lyerly motioned to adjourn the May 2010 meeting of the Town Council. Mr. Tufts seconded the motion. Mayor Tate called for a vote of approval. Mrs. Lyerly, Mr. Tufts, Mr. Hahn and Mr. Phillips all approved. There were none opposed.

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Mayor Deka Tate

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Steven R. Smith Finance Officer/Clerk

June 14<sup>th</sup>, 2010  
Approved