

**BANNER ELK TOWN COUNCIL**  
**June 14th, 2010**  
**MINUTES**

The Banner Elk Town Council met Monday June 14<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 and Ms. Draughon.

Staff present: Town Manager John Mejaski, Chief of Police Bill Burleson, Public Works Director Bart Farmer, and Town Attorney Chelsea Garrett.

Others present: Mari-Liis Smyth of the Avery Post, Jamie Shell of the Avery Journal, Toni Cook, Bob Littleton, Rick Foster, Ted Silver, Mary Elder Frisbie, Scott McKinney and Martha Beasley, Bill & Donna Dicks, Jean Ells, Sue and George Freeman, Charles and Penny VonCanon, and Sara Brewer

**Call Meeting to Order**

Mayor Tate called the regular monthly meeting for June 2010 to order at 6:00pm.

**Pledge of Allegiance**

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

**Invocation**

Mayor Tate opened with prayer.

**Public Hearing – Budget**

Mayor Tate introduced and opened the Public Hearing for citizens to make comment on the Fy 2011 proposed budget. Town Manager Mejaski went over a few minor changes made since the last budget meeting. Ms. Draughon asked what the revenue line item “Hold Harmless” is all about. Mr. Mejaski stated that he would have to get back to Council on this matter. Being no other comments from the citizens Mayor Tate closed the Public Hearing on the Budget.

**Public Hearing – Public Consumption of Alcohol**

Mayor Tate opened the public hearing and stated that Council has discussed the matter of open consumption of alcohol during special events. Mayor Tate asked for comments from the citizens. Sue Freeman of the Avery County Chamber spoke in favor, stating that this would bring in revenue to the Town. Mrs. Smyth stated that this is after the fact that people have been drinking wine at the summer concert series for years. She went on to state that something should be passed in light of this. Mayor Tate stated that it is not being served or sold. Mr. Silver asked if there has been a draft ordinance that has been made available to the public. Mr. Mejaski stated that there is, that it was published in the newspaper and has undergone legal review. Donna Dicks stated that she asked Sara Brewer to come to meeting because she has a great amount of information on the subject. Ms. Dicks stated that each event sponsor would have to apply for a ABC

commission permit and each event would have to be a ticketed event. Mr. Mejaski stated that these matters are known and that this ordinance does not try to bypass anything and that each event sponsor would have to abide by all State laws. Donna Dicks asked who would be responsible for the event on such matters as over consumption and underage drinking. Chief Bursleson stated that the holder of the ABC permit by law is the responsible party. Donna Dicks asked if we really want to go there. Mr. Silvers commented again on the summer concert series and how this will affect this event. Mr. Mejaski stated that the ordinance in question tonight was not drafted with any on going current event in mind. More discussion was held concerning consumption of alcohol at the summer concert series. Mr. Tufts asked the Chief about not having a ticketed event but a permit to bring your own. The Chief stated it still would fall under a one time permit. There was ample discussion on the ABC permitting process to the detail. Ms. Draughon stated that she had sold hot dogs in the park last year and attended all but two concerts and witnessed people that were drunk, one man fell over a child. Donna Dicks made the comment that if we are having trouble now with what is already on the books are we just going to add to that trouble. Mrs. Lyerly asked Mr. Mejaski who all has poured over this and has given it their blessing. Mr. Mejaski responded by stating that Chief Bursleson, the Town Attorney and himself. Mr. Tufts asked Mr. Mejaski his thoughts on the matter. Mr. Mejaski stated he would like to see Council pass the ordinance. Penny VonCanon asked if this doesn't take away from the established businesses to sell a drink. Penny went on to say that this is a family oriented venue and she wondered if the restaurants have been consulted on how they might feel about the ordinance.

Mayor Tate hearing no further comments or discussion on the matter, closed the public hearing at 6:30pm.

### **Approval of the Minutes of the May 10<sup>th</sup>, 2010**

Mayor Tate asked Council for a motion to approve the minutes of the May 10<sup>th</sup> meeting of the Town Council. Mr. Tufts asked about the statement that Mr. Robbins made concerning an agreement between the Town and Elk River Club. Mr. Tufts asked if any agreement really exist. Mr. Mejaski stated that no agreement could be found. He went on to state that there is a deed restriction on Town Hall that has expired. Mr. Tufts motioned to approve the minutes striking the comment made by Mr. Robbins concerning an agreement between the Town and Elk River Club. Mrs. Lyerly provided a second. Mayor Tate called for a vote. In favor were Mr. Tufts, Mrs. Lyerly and Ms. Draughon. Mr. Phillips and Mr. Hahn were absent during the vote.

### **Approve the Stated Agenda**

Mayor Tate asked for a motion to approve the agenda with a change being made in the order of items and the addition of declaring surplus property. The change would move item 7 to item 1. Mrs. Lyerly motioned to approve the agenda with the change. Ms. Draughon seconded the motion. Mayor Tate called for a vote. In favor were Mr. Tufts, Mrs. Lyerly and Ms. Draughon. Mr. Phillips and Mr. Hahn were absent during the vote.

### **Citizens Concerns**

Mrs. Sue Freeman with the Avery County Chamber and the Avery County Centennial Committee was given the floor by Mayor Tate. Mrs. Freeman stated that she is seeking funds for the County Centennial. Mrs. Freeman spoke of the events to be held during the centennial celebration. Mrs. Lyerly asked how much money has been raised from the County and the other Towns. Mrs. Freeman stated they have asked the County for twenty thousand dollars and ten thousand from each town. As to date no funds have been received. Mrs. Freeman stated that the County, Beech Mountain and Seven Devils have said yes to the funding request. Mrs. Lyerly stated that she thinks the Banner Elk TDA is where this should come from.

### **Amend Section 111.02 of the Banner Elk Code of Ordinance, Consuming, Serving or Displaying Malt Beverages or Unfortified Wine in Public Places**

Mrs. Lyerly motioned to amend Section 111.02 of the Banner Elk Code of Ordinance, Consuming, Serving or Displaying Malt Beverages or Unfortified Wine in Public Places as present with the park being the designated area to hold such events. Mayor Tate called for a second. Being no second the Mayor asked if there are any other motions. There were no other motions. Council failed to take formal action on the matter.

### **Bicycle Committee Report**

Mr. Silver the Chairman of the committee updated Council on its June 3<sup>rd</sup>, 2010 meeting. Matters discussed were Rural Transportation Committee meeting in August 2010, grant applications, participation in the 4<sup>th</sup> of July parade, and website link.

### **Adoption of FY 2011 Budget Ordinance**

Mayor Tate introduced the next item, the FY 2011 Budget Ordinance. Mayor Tate stated that it has been discussed in the Public Hearing and a motion is called for. Mrs. Lyerly motioned to adopt the FY 2011 budget as present. Ms. Draughon seconded the motion. Mr. Hahn asked to allow five thousand dollars be allocated to the Banner Elk Heritage Foundation. Mr. Hahn outlined the successes of the BEHF and the need to keep its funding alive. Mr. Hahn stated that the Town gives to similar organizations and efforts. Mr. Phillips asked if the two and half percent cost of living adjustment was still in the budget to be received across the board by all employees. Mr. Mejaski stated that it is in the budget however it will not be across the board. Mr. Phillips asked what percentage of employees would not receive a cost of living adjustment. Mr. Mejaski stated that probably four to five employees would not receive the full two and half percent. Mayor Tate called for a vote on the FY 2011 Budget Ordinance. Mr. Tufts, Ms. Draughon, Mrs. Lyerly were in favor. Mr. Phillips and Mr. Hahn opposed.

### **Water/Sewer Application from New School**

Mr. Mejaski stated that an application for water and sewer service has been received from the Avery County Board of Education for the new Banner Elk Elementary School. Mr. Mejaski stated that he does not have the authority to approve the application and therefore it is in front of Council. Mr. Phillips made the motion that the Avery County Board of Education move forward with an application for voluntary annexation of the

school property in order to connect to the water and sewer system. Mr. Hahn seconded the motion. Mayor Tate called for discussion of the motion. Being none, Mayor Tate called for a vote. Ms. Draughon, Mrs. Lyerly, Mr. Hahn, Mr. Phillips and Mr. Tufts all approved.

### **Solar Energy Feasibility Study**

Mr. Mejaski stated that one of the things that came out of the energy audit done this past spring were ways to save money. Mr. Mejaski stated that he had a solar energy study performed on the Town Hall building and it is perfect in that it is facing south. He stated that there are great incentives out there such as thirty eight percent Federal tax credit and thirty two percent State tax credits and one thousand dollars directly back from the energy company. Plus .22 cents energy purchase from the energy company. Mr. Mejaski stated that there would be a nine year payback on twenty five year solar panels. Mr. Mejaski went on to say that the secondary benefit is the statement you are making by being a green community which PR value derives from and educational benefits.

### **Approve Alternate to ABC Board – Robin Dunn**

The Mayor introduced the item to Council. Council was in agreement that Mrs. Dunn had already been appointed as an alternate to the Board. No formal action taken.

### **Set Date for Public Hearing to amend Control of Solid Waste Section 94.175**

Mrs. Lyerly motioned to set the date of July 12<sup>th</sup>, 2010 at 6:00pm as the date and time for public hearing on the issue of amending Section 94.175 Control of Solid Waste. Ms. Draughon seconded the motion. Mayor Tate called for a vote. Ms. Draughon, Mrs. Lyerly, Mr. Hahn, Mr. Phillips and Mr. Tufts all approved.

### **Managers Update**

Mr. Mejaski updated Council on items of importance which included, payment of the water/sewer bonds from the water/ sewer department, a water/sewer map for locating man holes and such, grants for connecting Grandfather Home to the water system, greenway trail expansion, regional meeting with TDA organizations, conditions of fleet vehicles.

### **Sale of Surplus Property**

Mayor Tate asked for a motion to declare a Chevy Lumina and 2005 Chevy Impala as surplus to be sold through private sale. Mr. Tufts made the motion and Mr. Phillips second. Mayor Tate called for a vote. Ms. Draughon, Mrs. Lyerly, Mr. Hahn, Mr. Phillips and Mr. Tufts all approved.

### **Closed Session – Pursuant to N.C.G.S. 143-318.11(a)3 Attorney Client Privilege**

Mayor Tate called for a motion to go into closed session. Mrs. Lyerly motioned to go into closed session pursuant to N.C.G.S. 143-318.11(a)3 attorney client privilege.

### **Adjourn**

Mr. Phillips motioned to adjourn the June 14<sup>th</sup>, 2010 meeting of the Town Council. Mr. Hahn seconded the motion. Mayor Tate called for a vote. Ms. Draughon, Mrs. Lyerly, Mr. Hahn, Mr. Phillips and Mr. Tufts all approved.

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Mayor Deka Tate

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Steven R. Smith Finance Officer/Clerk

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