

BANNER ELK TOWN COUNCIL
July 12th, 2010
MINUTES

The Banner Elk Town Council met Monday July 12th, 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: Chief of Police Bill Burluson, Public Works Director Bart Farmer, and Town Attorney Chelsea Garrett, Town Clerk Steven Smith.

Others present: Mari-Liis Smyth of the Avery Post, Kevin Holden of the Avery Journal, Toni Cook, Bob Littleton, Rick Foster, Ted Silver, Bill & Donna Dicks, Penny VonCanon, Jim Swinkola, Cliff Elder,

Call Meeting to Order

Mayor Tate called the regular monthly meeting for July 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 – ETJ

Mayor Tate introduced the matter of extraterrestrial jurisdiction to the assembly. Mayor Tate asked Zoning Administrator Cheryl Buchanan if she would like to say anything on the matter. Ms. Buchanan explained the process that has led up to this point. Mayor Tate expanded on Ms. Buchanan's statements to say that this is not about telling people what to do their property such as mowing and trash but rather to keep undesirable things from happening such as strip clubs and trailer parks. Mayor Tate went on to say that people affected would have opportunity to say how their property should be zoned. Also, this would help clean up the corridors leading into town, which have been a problem for a long time and source of many complaints. Mayor Tate also stated that this would help protect large tracts of land from undesirable development. At this point Mayor Tate opened the floor to those that wished to voice their concerns.

Mr. Steve Sims representing the Elk River Property Owners Association as president of the association stated that he agrees with all that Mayor Tate has said and it is Elk Rivers desire as well to keep the mountains beautiful. Mr. Sims stated that he has written several letters to the town outlining why this action would not benefit or change the town but would be detrimental to the club. Mr. Sims asked that the letters sent be added to the record and therefore would not comment further on the points contained within the letters. Mr. Sims stated that a petition against the matter of ETJ was signed by almost all members of the POA and Elk River Club. Mr. Sims stated that it is

overwhelmingly against the including Elk River in the ETJ. Mr. Sims respectfully asked that Council exclude the Elk River Club from the ETJ.

Bob Alfer spoke representing the Elk River Club. Mr. Alfer stated that when he purchased his property more than ten years ago he and his wife were told that the prior Mayor of Banner Elk had represented to the Elk River Club and the Robbins family that this type of activity would never occur and that is why they have come forward with this petition. Mr. Alfer stated that he would like to reiterate what Mr. Sims has said. Mr. Alfer thanked the Council for there hard work.

Mr. Dell Williamson who is a resident of Elk River spoke stating that he is against the ETJ. Mr. Williamson stated that he is concerned about the confusion that this would create as to whom is the controlling authority of seeing to the on going development of the Club. Mr. Williamson stated that the Club is very restrictive and he sees a problem. Mayor Tate stated that areas already established would not change.

Mr. Gary Shook from the Horsebottom community asked how far is the Town wanting to go up that way. After viewing the map it was determined that Mr. Shook would not be taken into the ETJ.

Mr. Mike White manager of the Best Western in Banner Elk spoke next. Mr. White asked if the stormwater drain at the corner of the hotel driveway would be fixed since the Mayor had stated that the corridors would be cleaned up. Mr. White stated that the Town and the NCDOT had approved the drain box when Apple Orchard development came in, yet it fails to handle the amount of water run off that comes down through there. Mr. White stated that it all seems to thin for him. Mayor Tate stated the Town has worked hard to resolve the problem. Mr. White said it was all talk from the Town. Ms. Buchanan stated that the issue is being addressed in conjunction with the new elementary school and that fixing the drainage is hoped to happen when the turn lane is installed.

Mayor Tate asked if there was anyone else wishing to speak on the matter of ETJ. Being none Mayor Tate closed the public hearing.

Public Hearing – Control of Solid Waste Section 94.175

Mayor Tate introduced the matter of amending or adding Section 94.175 to the Banner Elk Code of Ordinance by stating that before Council can proceed they would need to have something in writing in regard to the change. With that being said the Mayor opened the floor to those present to make comment.

There were no comments on the matter and Mayor Tate Closed the public hearing.

Approval of the Minutes of the June 14th, 2010

Mayor Tate asked Council for a motion to approve the minutes of the June 14th meeting of the Town Council. Councilmember Draughon motioned to approve the minutes of the Town June 14th, meeting of the Town Council as written. Councilmember Phillips seconded the motion. Mayor Tate called for discussion being none Mayor Tate called the vote. Ms. Draughon, Mr. Phillips, Mrs. Lyerly, Mr. Hahn and Mr. Tufts all approved.

Approve the Stated Agenda

Mayor Tate asked for a motion to approve the agenda. Mrs. Lyerly motioned to approve the stated agenda. Mr. Hahn seconded the motion. Mayor Tate called for discussion being none Mayor Tate called the vote. Ms. Draughon, Mr. Phillips, Mrs. Lyerly, Mr. Hahn and Mr. Tufts all approved.

Citizens Concerns

Mr. White voiced his concern about having only one solid waste collector for the Town of Banner Elk. Mr. White stated that he has used both companies, one by force on him and one voluntarily. Mr. White stated that he prefers the company that is not forced on him and does not understand why only one company has exclusive right. Mr. White stated that he changed to High Country Waste just to go along with the program and was dissatisfied with the service so he switched back to GDS and is very happy. Mr. White stated that he should be left alone to choose the company that best services his needs. Mr. White stated that he would like to encourage Council not to create an ordinance granting a franchise to any one company.

Mr. White addressed Council on a second issue, that being a water/sewer issue in which the Town is now charging the Best Western for access to the Town's water system. Mr. White explained that the hotel has been on a well for all thirty seven years of it's existence and that he feels this charge is unreasonable and bad business. Mr. White stated that he had never been informed of a public hearing on some new charges that would have affect on the hotel and is now inquiring about this. Mr. White asked to know the Councils position on charging for access to the system. Mr. White stated he is being charged for water he does not use. Mr. White also stated he knows of other in town businesses that are in the same situation and they are not being charged, but he is being charged for access at the hotel. Council engaged in discussion on the matter. Council determined that the issued would be looked into further.

ETJ

Mayor Tate opened the subject of explanation of the Town's ETJ by asking for a motion. Map # 1 which encompasses the entire one mile radius from the Town corporate limits or Map # 2 which excludes the Elk River Club. Mr. Tufts stated that the population of Banner Elk grew forty five percent since 1970 and from 2000 to 2008 the population grew twenty six percent, a according to census data. Mr. Tufts stated the Town is growing and based on that information Mr. Tufts asked to make a motion. Mr. Tufts motioned to approve Map #1 the one mile radius taking everyone within the radius into the ETJ fairly and excluding no one. Mrs. Lyerly seconded the motion for purposes of discussion. Mayor Tate opened the floor to Council for discussion. Mr. Hahn asked for common sense and went on to explain his thoughts on ETJ. Mr. Hahn stated it made no sense to him to put ETJ into areas pervious zoned and developed or to areas that exceed the care of our own Town. Mr. Hahn stated that when he has opportunity to drive around Elk River Club he does not see problems that our zoning would take care of, or cars jack up on blocks. Mr. Hahn stated he had never seen a gate community that

does hold itself to a higher standard to begin with and make no sense to place zoning on a community that we can not improve on. Mr. Tufts stated that he feels that Elk River does a wonderful job and having served on the Planning Board he does not feel that we have any zoning ordinance that would preempt or take over or make Elk River do something bad and so does not feel that there will be any impact by the Town on the Club. Mr. Tufts went on to say that he feels that it is more equal to everyone to include Elk River. Mr. Hahn stated that it makes no sense to have two standards and that there is always a potential for a problem and it creates problems for the Town that we don't need. Mrs. Lyerly asked what problems would it cause. Mr. Hahn cited two in the past, one being the hangers at the airport and the other being a building for the ambulance both became the Town problem since they occurred in the ETJ and the Town zoning ordinance conflicted with the Club wanted to do. Ms. Draughon stated that she has driven to the one mile and it seems so far out and that it just seems we do not need so much, it is a sweep with a very board of broom. Mr. Tufts stated that one mile is in our line of sight, impacts our environment and it does impact the Town. Mayor Tate called the vote. Mr. Tufts voted in the affirmative. Mr. Hahn, Mrs. Lyerly, Mr. Phillips and Ms. Draughon all votes against. Motioned failed 1-4.

Mayor Tate called for a new motion based on Map # 2. Mrs. Lyerly motioned to approve the ETJ expansion based on Map #2. Mr. Tufts seconded the motion. Mayor Tate called for discussion on the matter. Ms. Draughon stated that she needs this done fairly and equitably and that how can we look at Map #2 in anyway and say this is fair. How can we exempt resort who have objected strongly and the people in other areas have objected just as strenuously and yet the other areas are still included. Mrs. Lyerly stated that we are not doing anything, this is for everyone protection. Mayor Tate called for further discussion being none Mayor Tate called for the vote. Mrs. Lyerly and Mr. Tufts voted in favor. Mr. Phillips, Ms. Draughon and Mr. Hahn all voted against the measure. Motion failed 2-4.

Mayor Tate asked if there were any further motions on the matter of ETJ. Being none Mayor Tate moved to the next topic on the agenda.

Report from Ted Silver, Chairman of the Bicycle Committee

Ted Silver reported to Council on the July meeting of the bicycle committee. Mr. Silver stated discussion was held in regard to grants, pedestrian issues, better relations with Lees McRae College, Lees McRae College plan for a degree in cycling, cycling and pedestrian safety, bicycle lanes and local ordinances.

Budget Amendment Fy 2010 Budget

Mr. Hahn asked about line items being over spent such as administration legal expense and others. The finance officer stated that the budget amendment reflects department over spending and nothing can really be determined looking solely at the amendment concerning individual line items. Yes many line items are over spent but the goal of the amendment is to bring departments into a positive range rather than the line item. Mr. Phillips motion to approve the Fy 2010 budget amendment. Mr. Hahn seconded the motion. Ms. Draughon, Mr. Hahn, Mrs. Lyerly, Mr. Phillips and Mr. Tufts all approve, none opposed. Motion passed 5-0.

Resolution to Support the ARC

Mayor Tate introduced the resolution. Mayor Tate stated that this resolution concerns her just because without the Town Manager present to explain the resolution we really don't know what this about. The Mayor also stated that felt that this opens the Town up to a lot of unknown expenditures. Therefore the Mayor suggested to Council that the item be tabled until Mr. Mejaski is present in order to get explanation. Council held discussion on the matter of tabling the matter and what the resolution is

Resolution in support of the Town's Master Recreation Plan

Mayor

Announcement of Public Input Meeting on July 27th at 5:30pm Regarding Recreation Master Plan

Amend Section 94.175 Control of Solid Waste

Adjourn

Mayor Deka Tate

Steven R. Smith Finance Officer/Clerk

June 14th, 2010
Approved