

BANNER ELK TOWN COUNCIL
April 9, 2012
MINUTES

The Banner Elk Town Council met Monday, April 9, 2012 at 6:00 p.m. at Banner Elk Town Hall for their regular scheduled meeting.

Council Members present: Mayor Brenda Lyerly, Allen Bolick, Charlie VonCanon, Gail Draughon, Robert Tufts and David Lecka.

Staff present: Town Manager Rick Owen, Steve Smith, Chief Bill Burleson, Lt. Byron Clawson and Town Attorney Four Eggers.

Others present: Penny VonCanon, Rebecca Bolick, Ted Silver, Mrs. Silver, Jamie Shell and other interested parties.

Call Meeting to Order

At 6:00 p.m. Mayor Brenda Lyerly called the regular monthly meeting for April 2012 to order.

Pledge of Allegiance

Ms. Lyerly led those in attendance in the Pledge of Allegiance.

Invocation

Council member Allen Bolick opened the meeting with prayer.

Public Hearing – Zoning Ordinance Amendments

Mayor Lyerly asked if anyone had any questions or comments regarding the amendments pertaining to Section 600.2 Colors and Section 502.3 Roofs. Council member Draughon thanked the planning board for working so diligently with the color section and stated that it was clearer and looked great. Mayor Lyerly closed the public hearing.

Public Hearing – Annexation Request Luci Mae Lowery

Mayor Lyerly opened the public hearing and asked if there were any questions or comments. Rick Owen addressed council stating that Ms. Lowery has two parcels which were combined into one parcel located off the Beech Mountain Parkway. Ms. Lowery has requested that the Town of Banner Elk annex the parcel. Mr. Tufts asked if it was two parcels or one parcel. Mr. Owen stated that it is one parcel; however, per GIS it still shows two. Mayor Lyerly declared the public hearing closed.

Approval of the Minutes

Mayor Lyerly asked council for a motion to approve the March 2012 minutes. Council member Tufts motioned to approve the minutes as written. Council member Draughon provided a second. The March 2012 minutes passed with all in favor and no one opposed.

Approval of the Stated Agenda

Mayor Lyerly asked council for a motion to approve the April 2012 agenda as written. Mr. VonCanon made a motion to approve the agenda. Mr. Lecka seconded the motion. The agenda passed with all in favor.

Citizen Concerns

There were no citizen concerns.

Zoning Ordinance Amendments: Section 600.2 Colors and Section 502.3 Roofs

Mayor Lyerly asked if there was a motion or if there was any discussion. Council member Bolick made a motion to approve the amendments. Council member Draughon seconded the motion. Mr. Tufts asked if one motion could approve both changes. Mr. Eggers stated yes. The motion was then rephrased. Council member Bolick made a motion to approve the amendments to the color section and the roof section. Council member Draughon seconded the motion. All were in favor. No one opposed.

Annexation Request

Mayor Lyerly asked if there was a motion or if there was any discussion. Mr. Von Canon made a motion to approve the annexation. Mr. Lecka seconded the motion. All were in favor. No one opposed.

Proposal for the Disposal of Surplus Property

Mr. Owen addressed council. He stated that last month council was going to discuss the disposal of a piece of equipment, the Dodge Durango, from the police department. This topic led to a discussion of how we were going to dispose of it, how it was done in the past, etc. Mr. Owen introduced the resolution prepared by Four Eggers to empower the staff to begin a process of establishing procedures for the disposal of surplus property. Mr. Eggers addressed council stating that the process would authorize the town to sell property through an electronic auction site, if chosen, which is more convenient for staff to dispose of property. It would allow the staff to declare items as surplus and once there is a bidder, it would come back to council to be approved or disapproved for the price the bidder is willing to pay. He told them that the way the resolution is written all items that the town manager surpluses would come back before council for approval regardless of dollar value or amount. Rick addressed council asking them if they would want to approve all surplus property or have them set a dollar amount on surplus value. Mr. Eggers stated that it would apply to all except real estate. He also noted that the government web site is public knowledge. The items placed on the web site get good dollar values because of the exposure to people interested in government property. He said that if council sets a dollar figure other than the manager's ethics there would be no other safeguard. Mr. Bolick asked if there were any checks and balances to safeguard and protect the town manager if an item is sold too cheaply. He stated that the town should have a standard or a safeguard in place that protects the town manager. Mr. Eggers suggested that the town put a link to the gov.deals web site on the town's web site showing that the town is using an electronic auction site and also post it in town hall. Mr. Bolick recommended that we post a public notice on the bulletin board at the front door describing the town's handling of surplus property. He also recommended that the town put a \$2,000 minimum sale price on sales that require council confirmation. Council member Bolick

made a motion to approve the resolution to establish procedures for the disposal of surplus property. Council member Tufts seconded the motion. All were in favor. No one opposed.

Board of Adjustment Appointment

Mayor Lyerly addressed council stating that the Board of Adjustment recommended Deka Tate, who was an alternate, to fill the in-town vacancy position left by Scott Woodward, who resigned. She said that we now need to reappoint Ms. Tate as a full member. Ms. Lyerly also stated that the Board of Adjustment recommended that Ted Silver be appointed as an in-town alternate. Council member Tufts made a motion to approve the appointment of Deka Tate as the in-town member and Ted Silver as the in-town alternate. Council member Draughon seconded the motion. All were in favor. No one opposed.

Budget Amendment

Mayor Lyerly called upon Steve Smith to address the budget amendment. Mr. Smith stated that two grant awards have come to completion. He said that the only increase in actual spending was the \$5,556.00 which was the matched amount on the Stormwater Planning Grant. Mr. Smith stated that all the money was covered under grant revenues. Ms. Lyerly asked Mr. Smith to explain the conflict of state and local policies with regard to achieving healthy life styles. Ted Silver explained that the grant from the Department of Health and Human Services was used for the town's greenway plans. There was no match. It was a straight grant and the entire grant was utilized. Mr. VonCanon made a motion to approve the budget amendment. Ms. Draughon seconded. All were in favor. No one opposed.

Stormwater Vault Cleanout

Mr. Owen addressed council stating that this item is a maintenance issue that normally would be handled within the budget. He wanted to bring it to council's attention because it was not in the budget for this year. The maintenance is to an underground stormwater storage vault at the Historic Banner Elk School. The vault requires that the sludge be removed from the storage area. There are operational and maintenance questions about the system. Mr. Owen doesn't feel comfortable with the town staff performing the cleanout due to safety and liability issues. He told council he would feel more comfortable having a professional perform the services. Mr. Owen asked Derek Goddard with Blue Ridge Environmental Consultants to find someone to perform the work. Mr. Owen presented council with the two quotes. Mayor Lyerly asked for clarification: we don't own the property, but we own the vault underneath. Mr. Owen told her that was correct and that the town has a long term easement. He told council that the vault is located at the playground area at the school, diagonally opposite from the fire department. He also noted that once it is cleaned out, the cost to maintain won't be as much as this initial cost. Mr. Tufts raised a concern that if it is pumped out and tested, they discover the material to be hazardous. Mr. Owen said that would be another issue to deal with and it would cost more, but Mr. Goddard's feeling is that it is not hazardous. Mr. Owen stated that Mr. Goddard's fee is for being on site and overseeing the entire process. Mr. Goddard also estimated that the vault contained about 1,000 gallons. Mr. Lecka made a motion to proceed with the cleanout up to twice the cost of STAT's quote. Mr. Tufts seconded. All were in favor. No one opposed.

Manager's Update

Mr. Owen noted to council that the financial reports, police reports, planning, zoning and tax collection reports were included in council's packets along with the minutes from the planning board meeting and board of adjustment meeting.

Mr. Silver addressed council giving them an update regarding his trip to Washington DC meeting with the League of American Bicyclists National Bike Summit. He stated that North Carolina had about 22 representatives who came for the summit out of the 900 participants from around the country. Their timing was good in that the Congress dropped all transportation funding, all enhancements, safe routes for schools and recreational trails funding. The Senate put it back in and the House gave it a 90 day extension. The job is not finished. He also noted that on October 12 and 13, the state of North Carolina will be holding its first bike summit in Raleigh.

Mr. Owen reported to council that the Town of Banner Elk will be participating in the North Carolina Litter Sweep. He stated that this year it will be held from April 14th through the 28th. The town asked citizens to adopt streets in their neighborhoods to cleanup. This event will be placed on the town's web site. Mr. Owen also contacted Brett Gardella regarding the old school clean up. He has yet to confirm it with Mr. Owen. Mayor Lyerly asked about the Boy Scouts and Mr. Owen said they have been contacted about this project.

Mr. Owen stated that in regards to the council chamber renovation a contract was drawn up and is in the hands of Nils Peterson. Mr. Peterson plans on starting on the renovation project on April 16. His goal is 8 weeks, but Mr. Owen's goal is 6 weeks so that only one council meeting will be missed in the council chambers. He noted that May's meeting will be held at the police department. Mayor Lyerly asked for a motion to record the changes. Council member Lecka made a motion to change the location of town council's May meeting to the police department and the date changed to Tuesday, May 15, 2012 at 6:00 p.m. Council member Tufts seconded the motion. All agreed. No one opposed.

Mr. Owen presented to council members color selections for the council chambers. He asked for advice from Bob Mann and Pam McKay. He showed council selections for the doors and for the walls. They discussed having the walls the darker color and the doors the lighter color. Mr. Owen also discussed the decision for the table. There were several choices from which to choose.

Mr. Owen brought up the subject of the passing of Jack Masters. He stated that several organizations around town were doing different things around the community in memory of Jack. People have approached him as to what the town will be doing in Jack's memory. The two opportunities that were presented to him were to change the name of a street in his honor or put a plaque at the amphitheater because Jack was very active with the Thursday night concerts. Council member VonCanon stated that his wife, Penny, thought of doing something at the new kiosk at the park. Council member Lecka noted that whatever the town does it should be publicized in the local papers. Mayor Lyerly stated that a suggestion she received was naming one of the town's shorter streets that are visible from the main road Jack Masters Road.

Council member Draughon really liked naming the amphitheater in Jack's name. Council members all agreed to a plaque at the amphitheater and dedicating it at one of this summer's concerts.

Mr. Owen noted that an ethics training course will be bought and will be offered at a time to be announced.

Mr. Owen reported that the planning board discussed AC PRIDE at their meeting last week. There were some different ideas how this process will go forward and the course of action the town would take to not rezone the property. As stated by Bret Gardella, it is the plan of AC Pride to have an educational component. As time has progressed, it has become complicated for staff to be sure that the town is not questioned about why we allowed this activity in this zoning district. At last month's planning board meeting, Bret Gardella presented his plan. Out of that meeting came the staff's recommendation for the town to add a permitted use to our table for small business incubators and these would be allowed under the medical and educational zoning district. In this permitted use, the town would have a set of definitions and standards that would be allowed under this section. The planning board didn't have a formal recommendation to present to council; however, they did have comments and feedback given to Four Eggers who in turn would formalize these in writing to present to council. A special meeting will have to be called as soon as possible to go over the formal recommendation which is a conditional use permit process.

At 6:40 p.m. council member VonCanon motioned to have council proceed to closed session pursuant to NCGS 143-318.11 (a)(3) Attorney-Client Privilege and pursuant to NCGS 143-318.11(1)(6) Personnel Matters. Council member Bolick seconded. All were in favor.

Mayor Lyerly thanked everyone for coming.

At 6:59 p.m. Council member Draughon made a motion to end the closed session portion of the meeting. Council member Lecka seconded. All were in favor.

Council returned to open session at 6:59 p.m.

Other Business

Mayor Lyerly addressed council regarding a letter to the town from the state treasurer. Mr. Smith stated that the state only looks at fund balances not at the town's capital reserves. The town puts a lot of money into capital reserves and it is his feeling that the money is undesignated for a project and undesignated for temporary use other than capital reserves. The town could always bring the money back into the general fund. Mr. Smith also noted that the state's statutes require that 8% needs to be available in the fund balance, but in the letter the state recommends 100%. The staff will prepare a response to the Local Government Commission.

Council member Von Canon made a motion to amend the agenda to add the following item: Discussion on Green Energy. Council member Lecka seconded the motion. All were in favor.

Discussion on Green Energy

Due to recent activity in Avery County around green energy, councilman Lecka questioned if the town had the proper ordinances in place to protect the town. Council was informed that the planning board had discussed the topic but had not prepared a recommendation as of yet. Mr. Eggers was asked if the council could place a moratorium on certain types of energy installations. This would give the planning board time to respond to community concerns. Mr. Eggers indicated that as long as the moratorium was for a reasonable period of time and for the purpose of creating an ordinance it would be okay.

Council member VonCanon made a motion to put in place a moratorium on the construction of solar, wind and hydro energy systems for a period of 120 days in order for the planning board to work on an ordinance. Council member Bolick seconded the motion. All were in favor. No one opposed.

At 8:15 p.m. Mr. VonCanon made a motion to adjourn the April meeting. Ms. Draughon seconded. All were in favor

Adjourn

The town council meeting adjourned at 8:15 p.m.

Mayor Brenda Lyerly

Steven R. Smith
Finance Officer/Clerk

Approved: May 15, 2012