

**BANNER ELK TOWN COUNCIL**  
**March 12, 2012**  
**MINUTES**

The Banner Elk Town Council met Monday, March 12, 2012 at 7:00 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 Burlison, Byron Clawson and Town Attorney Four Eggers.

Others present: Scott Heath, Penny VonCanon, Rebecca Bolick, Larry Cotton, Bob Mann, Niles Peterson, Janet Spears, Ted Silver, Jamie Shell and other interested parties.

**Call Meeting to Order**

At 7:00 p.m. Mayor Brenda Lyerly called the regular monthly meeting for March 2012 to order.

**Pledge of Allegiance**

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

**Invocation**

Council member Charlie VonCanon opened the meeting with prayer.

**Approval of the Minutes**

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

**Approval of the Stated Agenda**

Mayor Lyerly removed Item #7 from the agenda and asked council for a motion to approve the March 2012 agenda as amended. Mr. Lecka made a motion to approve the amended agenda. Ms. Draughon seconded the motion. The amended agenda passed with all in favor.

**Citizen Concerns**

Mayor Lyerly introduced Larry Cotton. Mr. Cotton addressed council stating that he was there on behalf of the Crooked Creek POA Board to express their views on Lots 32, 33 and 34 on Rabbit Run and their possible use in future storm water management work. He noted that these lots lie in the flood plain, therefore are unbuildable. If donated to the town, the POA would like the Town of Banner Elk to assure the residents of Crooked Creek that the lots be maintained as other residential lots, that no seats or structures for recreational use be placed on the lots, that culverts that are already in place be maintained and that no catch basin facilities or water features be constructed on the property. Council member VonCanon stated that the greenway is widely

used and that many older people walk it. He said it would be nice for the town to provide benches in order to rest along the way.

### **Mini Round-About Update – Scott Heath, Avery County Board of Commissioners**

Mayor Lyerly asked Scott Heath to address council. Mr. Heath said that it was NCDOT's proposal / suggestion for a mini round-about. Mr. Heath stated that all three boards needed to be in agreement on what needs to be done at Orchard Lane. However, the Avery County School Board and the Avery County Commissioners had a meeting and the consensus was twofold: 1. They did not feel that the mini round-about would solve the problem and didn't want to proceed with it. 2. They didn't feel that there was an urgent need to do anything at the site at this time, but if development changes it might have to be studied further at a later date. The consensus was not to proceed with the mini round-about, but may consider turn lanes, which is still too costly. Mr. Heath stated that if the town council thinks something needs to be done at the site, another meeting can be requested with both boards. Council member VonCanon thanked Mr. Heath for addressing council which showed good public relations. Mr. VonCanon would like council to come to a consensus so that we can support the commissioners. He still feels that a stop light with a timer at the site would not be as costly, but that subject will have to be taken up at a later time. Mr. Lecka agreed with Mr. VonCanon in that the problem might not be there now, but in the future it may need to be readdressed. Mr. Tufts felt that something needs to be done at some point, but maybe not immediately. He also felt for the homeowners of the Apple Orchard as they were promised a turn lane. Ms. Draughon agreed with not doing the mini round-about. She stated that she understood that the school enrollment is projected to decrease rather than increase in the next few years, but also stated that people had told her a turn lane was needed. Mr. Bolick asked if the DOT was on board with the board of education and the county commissioners. Mr. Heath stated that the DOT does their own thing. They mentioned right of ways and drainage ditches that would affect Orchard Lane. All council members agreed to go along with the Avery County Board of Education and the Avery County Commissioners that a mini round-about is not needed at Orchard Lane; however, if in the future it is determined that improvements are needed in the area, the county would continue to be involved. Mr. Heath finally stressed the need for communication between the three boards. Mayor Lyerly thanked Mr. Heath for his support and agreed that Banner Elk Town Council wants to work with the commissioners on all similar projects.

### **Annexation Request**

Steve Smith reported to council that Luci Mae Lowery submitted to the town a petition requesting voluntary annexation of a portion of her property. He stated that she has two parcels located off Beech Mountain Parkway towards the end of Perry Road. One parcel lies within the town and the other does not. It is a small annexation (not quite 3.8 acres). Mr. Smith stated that he recommends to council to annex this parcel and to make a motion to have him as town clerk certify the petition and call for a public hearing to annex the property. Mr. VonCanon stated that according to the tax maps the town limits split the lots. Mr. Smith stated that Ms. Lowery's intention is to have the entire property in town. Mr. VonCanon also asked about water and sewer. Mr. Owen stated that Ms. Lowery currently has it on the front piece of her property. He stated that eventually she wants to subdivide this property and have the town provide water and

sewer. Mr. Tufts made a motion to authorize the town clerk to pursue the petition for annexation. Mr. Lecka seconded. All were in favor. No one opposed.

Mr. Bolick made a motion to hold a public hearing at April's meeting on this annexation. Ms. Draughon seconded. Mr. Tufts asked Mr. Smith if this gave him enough time to certify everything and to advertise. Mr. Smith said it should. All were in favor. No one opposed.

### **LMC Performing Arts Funding Request**

Mr. Owen addressed council stating that Lees McRae's funding request was in their packet with all the pertinent information. He called on Janet Speer to speak regarding the funding request. Mayor Lyerly addressed Ms. Speer stating that it surprised her to see how items have inflated over the years. Ms. Speer thanked the town for its support and for making this event happen. Mr. VonCannon stated that it was apparent that the town's total budget for donations this fiscal year was \$10,000. Ms. Draughon thought it was close to \$30,000. Mr. Owen stated that the town took out several items that they didn't consider donations because they were recurring expenses such as the fire department which is approximately \$15,000. He stated that the town looked at requested items when determining a budget amount. Mr. VonCanon noted that since the budget amount is \$10,000 the town should take the requests in the order given. Mr. Tufts stated that he discussed with Mr. Owen a plan about putting a submission date due for all those submitting funding application forms. Once all the applications have been submitted, then council could go through each one. Everyone agreed. Mr. Tufts questioned Ms. Speer regarding the large gap between program expenditures and the revenue sources outlined on the program. Ms. Speer stated that the revenue amount is start up money from the previous year which doesn't include ticket sales, donations, etc. Mr. Lecka stated that if the budget amount is \$10,000 and we give the entire amount to one group, then the other petitioners are left out. Mayor Lyerly expressed the need for a deadline date to determine how the money should be allocated. Ms. Lyerly informed Ms. Speer that council could not give her an answer this evening. Ms. Speer said June was their budget deadline. It was decided to make May 1 the deadline for submission of all funding request applications. Mayor Lyerly stated that the town appreciates the summer performing arts and how many people it draws. The council tabled this petition until May's meeting.

### **Council Chamber Renovation Update**

Mr. Owen addressed council. He presented to them a breakdown of the three bids for the renovation of the council chambers which does not include furniture and fixtures. Below the bids was a breakdown of expenses for fixtures. He stated that that price could change depending on what was decided. At last month's meeting, council members wanted additional information on renovating the room differently from the original plans, specifically the ceiling without T&G. The low bidder, Nils Peterson, priced this but other issues came up: how the lighting would be affected as well as the sheetrock, heating and air conditioning, and painting. Mr. Peterson addressed council thanking them for giving him the opportunity for his business to grow and is hoping that an agreement can come forth. The original quote was dated October 10, 2011. Mr. Peterson stated that he could come up with a \$6,500 decrease in his price; however, there would probably be about a \$2,150 increase for the drywall repairs, the lights and the painting. Low voltage lighting would be used which uses less electricity, uses a cooler bulb, has a brighter light

and lasts much longer than what is currently in the chambers. He stated that if the T&G ceiling is removed, the savings would be around \$4,300. Until we get up there, there is no telling what we will have to do to get the old fixtures out and the new ones in and there will be insulation issues, air space around the fixtures, and attaching the popcorn back. The T&G ceiling that Mr. Peterson originally priced was white pine with clear stain and beams that were stained with the existing color and cedar coffering. Mr. VonCanon asked Mr. Peterson if, while the work is being done, the room would be available. Mr. Peterson estimates that the work will take approximately 6 to 8 weeks. Everything will have to come out of the room. Mr. Peterson stated that the room will be unavailable for about 2 months. Mr. Peterson will also look into the heating and air conditioning and the grills and returns. All council members agreed to proceed with the T&G ceiling. Mr. Eggers will draft a contract for services rendered by the contractor. Mr. VonCanon made a motion to move forward with the renovation. Mr. Bolick seconded. All were in favor. No one opposed.

Mr. Owen addressed council asking for their input in the use of TVs and AV projection screens. Mr. VonCanon asked Scott Heath if the Avery County Commissioners utilize the two TVs in their chambers. Mr. Heath stated that they are used in power point presentations. The TVs were purchased with Emergency Management Funds after Hurricane Katrina. Mr. Heath said the county chambers double as the headquarters for emergency management. Mr. Mann stated that the design shows the room wired for TV, but suggests that the room be wired for both a TV and projector so that a decision could be made down the road.

#### **Attic Design Lease**

Mr. Steve Smith addressed council and told them that in the past few years, the town looked at the market rates in Banner Elk and how they compared to other market rates. He stated that we are in line with other leases in Banner Elk. The lease beginning April 1, 2012 will go up to \$585.00, based on the CPI being 2.3%. Mr. Smith recommended council to renew the lease. Mr. VonCanon questioned if utility price increases were considered in the rent. Mr. Smith looked at these rates two years ago and surprisingly Attic Design's space uses very little electricity, water, etc. Mr. Bolick noted some changes that need to be made in the lease and Mr. Owen stated that they will be corrected. Council member VonCanon made a motion to renew the lease agreement with Attic Design. Council member Tufts seconded. All were in favor. No one opposed.

#### **Greenway Trail Extension**

Ted Silver thanked council for the opportunity to address the town regarding the grant that was awarded Banner Elk by the North Carolina Department of Health and Human Services in the amount of \$20,200.00. The town employed CES Group out of Charlotte, NC, which is a full service engineering consulting firm that does landscaping, LED work, planning and development, working in the areas of parks, greenways and recreation. He told council that we used their services to help the town look at alternate greenway extensions from the town to the new elementary school. They proposed two routes on both sides of Highway 184. There were no cost projections. There was no way to begin pricing, costs, easements, property rights, negotiations, etc. Mr. Silver proposes that the town schedule a public workshop, making the renderings available to the public for their input. Then the town can look at grant availabilities, funding, etc. Mr. Tufts and Mr. Lecka agreed that the posters were nicely done and encouraged

that they be made available to the public to view and that these options enhance 184 coming into Banner Elk. Mr. Owen directed the Bicycle and Pedestrian Committee to set a public input meeting to present these ideas on the greenway trail extension. No action was taken on the part of council.

### **Call for Public Hearings**

Mr. Owen addressed council stating that at last month's council meeting the council called for two public hearings for proposed amendments to the zoning ordinance: (1) For text amendment of Section 600.2 and (2) Roof of Section 502.3 to be held at the March meeting. Mr. Owen apologized to council stating that the public hearings were not properly advertised so he asked council to call again for the public hearings. Mr. VonCanon questioned Section 502.3, flat roofs. Mr. Eggers stated his interpretation that if you have a flat roof in zoning districts C-2, M-1 and M-E you would have to have a parapet associated with it and that flat roofs are only allowed in those districts. It pertains to blocking equipment that is on a flat roof. A parapet would shield the equipment. Council member VonCanon made a motion to hold a public hearing on both referenced items. Council member Lecka seconded. All were in favor. No one opposed.

### **2012 Goals**

Mr. Owen reported that council members had a Goals Retreat on March 3<sup>rd</sup> and a compiled list of goals for the town was attached to their agenda. Mayor Lyerly asked if anyone had anything to add. Mr. Lecka wasn't sure if it was the appropriate time to do this, but his thoughts were to do something in honor of Jack Masters. Mayor Lyerly didn't think that was a goal, but we could have a discussion on what we would like to do. Ms. Draughon noted that under Beautify Town the heading Banner Elk in Bloom should read only Banner in Bloom and that it is a contest and will need two markers. Mayor Lyerly noted that it appeared to be a very comprehensive list. No action was needed.

### **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. Mr. Owen noted that Cheryl Buchanan will be advertising the uncollected taxes which was approved at last month's meeting.

Mr. Owen stated that the Banner Elk Board of Adjustment has vacancies as alternates. Two of them are in town vacancies and one is an ETJ vacancy. Mr. Owen made reference to Scott Heath that the Avery County Board of Commissioners approves the board members. He also stated that the town has an application process and wanted council and the commissioners to know that if they knew anyone who may be interested to fill these vacancies to call him. The chairman of the board of adjustments has resigned because he is moving out of town.

Mr. Owen reported that the planning board has two positions open and both are ETJ positions.

Mr. Owen told council that at the last county commissioners' meeting there was a discussion about the AC Pride project. Cheryl Buchanan sent a letter to Bret Gardella. The letter was meant to give Bret some direction on what the town needs from him to move forward. Mr. Owen is planning on meeting with Mr. Gardella later this week.

Mr. Owen stated that at the goals retreat it was discussed about putting photos and email addresses of the council members on the town website. Mayor Lyerly stated that council members agreed not to put personal email addresses on the web site. She also suggested that a group picture of the council members be taken and used on the web site.

Mayor Lyerly brought up the possibility of changing the meeting time of the Banner Elk Town Council to 6:00 p.m. Council member Lecka made a motion to change the meeting time to 6:00 p.m. Council member Draughon seconded. All were in favor. No one opposed.

Mr. Owen reviewed with council the plans for the park and the design of the picnic/restroom facility.

Mr. Owen gave council members an evaluation form to review his manager's position.

At 9:09 p.m. council member VonCanon motioned to have council proceed to closed session pursuant NCGS 143-318.11 (a)(3) Attorney-Client Privilege. Council member Draughon seconded. All were in favor.

Mayor Lyerly thanked everyone for coming.

At 9:34 p.m. Mr. Bolick made a motion to end the closed session portion of the meeting. Mr. Tufts seconded. All were in favor.

Council returned to open session at 9:34 p.m.

Council members made a motion to solve the boundary problem between VonCanon, Avery County and the Town of Banner Elk. A motion was made to quick claim the right to the property. Council member VonCanon abstained from voting.

At 9:36 p.m. Mr. VonCanon made a motion to adjourn the March meeting. Mr. Lecka seconded. All were in favor

**Adjourn**

The town council meeting adjourned at 9:36 p.m.

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Mayor Brenda Lyerly

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Steven R. Smith  
Finance Officer/Clerk

Approved: April 9, 2012