

**BANNER ELK TOWN COUNCIL**  
**May 15, 2012**  
**MINUTES**

The Banner Elk Town Council met Tuesday, May 15, 2012 at 6:00 p.m. at the Banner Elk Police Department 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, Cheryl Buchanan, Lt. Byron Clawson and Town Attorney Four Eggers.

Others present: Penny VonCanon, Rebecca Bolick, Ted Silver, Mike Ruppard, Sheila Ruppard, Sam Guignard, Bret Gardella, Dekka Tate, Janet Speer, Jamie Shell and other interested parties.

**Call Meeting to Order**

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

**Pledge of Allegiance**

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

**Invocation**

Council member VonCanon opened the meeting with prayer.

**Approval of the Minutes**

Mayor Lyerly asked council for a motion to approve the April 2012 minutes. Council member Bolick motioned to approve the minutes as written. Council member Lecka provided a second. The April 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 May 2012 agenda as written. Council member Draughon made a motion to approve the agenda. Council member Tufts seconded the motion. The agenda passed with all in favor.

**Citizen Concerns**

There were no citizen concerns.

**Proposed Zoning Ordinance Amendments – Business Incubators**

Mr. Owen suggested to council that they entertain a request for a public hearing on the proposed text changes to the ordinance to include business incubators as proposed by the planning board. Cheryl Buchanan presented to council a brief outline of what was contained in the proposal. She stated that the term incubators was defined and will be added to the Table of Uses. She stated that a section will be added to the ordinance, Section 922, that deals solely with incubators. Ms. Buchanan recommended these text changes based on input from Mr. Eggers, the town's attorney.

Mayor Lyerly asked if there was a motion for a public hearing at next month's meeting. Council member Tufts made a motion to call for a public hearing at June's meeting. Council member VonCanon seconded the motion. There was no discussion. All were in favor. No one opposed.

### **Funding Requests**

Mr. Owen addressed council. He noted that last year at budget time the town allocated \$10,000 to a line item that would be available for funding requests. The staff prepared a form where individuals could formally request funds from the town. May 1<sup>st</sup> was set as the cutoff date to make a request of the town. The town received five completed funding requests which are shown in council's agenda packet and the amounts which are being requested. Mr. Owen asked council to review the requests and entertain funding this evening. Ms. Lyerly stated that it was her understanding that council would consider the requests at their budget meetings. Mr. VonCanon stated that the five requests before council totaled \$17,250.00 which is \$7,250.00 over what the town allocated. His recommended breakdown of allocations came to a total of \$12,550.00 which is still over the budgeted amount. Mr. Bolick addressed council with his allocations which were in line with the \$10,000 line item. Mr. Tufts stated that he believed council already set a line item last year for Mountain Ambulance and the Banner Elk Fire Department. Mr. Owen stated that the town only separated out the fire department and the fire commission donations which are recurring donations and Mountain Ambulance doesn't request funding every year. Mr. Tufts then requested that the town give the full amount requested to Mountain Ambulance, an important service to the community. He also supported council member Bolick's figures. Ms. Draughon agreed that the town needs to increase the budget for funding requests. Mayor Lyerly stated that if we increase it, word will get out and the town will have more requests next year. Mr. Owen noted that this line item doesn't show the whole picture. The town is giving \$30,000 to the fire department and fire commission. He stated that the \$10,000 figure looks low because before those numbers were in this figure. He noted that historically this is approximately the amount of money that the town has given to these organizations. Mr. Bolick made a motion that the town allocate the following funds based on the town's \$10,000.00 budget and line item for donations for this year: High Country Fishing Classic \$700.00, Mountain Ambulance and Health Care Foundation \$3,000.00, New Opportunity School for Women \$750.00, Lees-McRae Performing Arts \$4,250.00 and The Greater Banner Elk Heritage Foundation \$1,000.00. Mr. VonCanon seconded the motion. All were in favor. No one opposed.

### **Presentation – Land Use Plan**

Cheryl Buchanan addressed council with a power point presentation of the Land Use Plan. She stated that the first draft is complete and that she and Rick worked very hard to get this plan, a 144 page document, on PDF format with maps inserted and charts for council's review. She presented an overview showing those serving on the committees, members of the current and past planning board and land use committee members (people chosen from the community). She showed the 1967 Land Use Plan, which is the town's current plan, which consists of discussion about population, the economy, soil and includes a street plan. Ms. Buchanan presented to council the proposed new plan which covers a spectrum of subjects that deal with the town and future planning. She shared with council the difference between the two plans.

Ms. Buchanan stated to council the committee's most important goals and objectives: to preserve the area of Banner Elk, to protect Banner Elk's natural resources and beauty, to assess the town's current facilities, to assess which facilities can be improved and to evaluate how the town can grow. The committee also discussed a community center, the town's working relationship with Lees-McRae and proper zoning issues. Ms. Buchanan showed table 2 which consisted of the demographics and the economy of Banner Elk. She stated that when this land use plan process was in its early stages, a survey was mailed to citizens and when these were returned, a summary was prepared with the results. The results showed that there is strong support for medical facilities and health care in general. There is a concern for our trees. She noted that Banner Elk does have a tree ordinance which only covers new development, not existing current property. The committee came up with three development scenarios. Plan A is our current development program. Plan B is a concentration on areas that would support an increase in tourism. Plan C considers current business infrastructure on Highway 184. Council member VonCanon commended Cheryl on the many hours that she spent on this project. Council member Tufts made a motion to call for a public hearing in June for the Land Use Plan. Council member Draughon seconded the motion. All were in favor. No one opposed.

*Mayor Lyerly momentarily paused the meeting to congratulate Cheryl Buchanan on her graduation with a two year degree and to congratulate Rick Owen upon the completion and graduation in Municipal Administration.*

#### **Call for Public Hearing – Budget**

Mr. VonCanon made a motion to call for a public hearing in June for the Budget. Mr. Lecka seconded the motion. All were in favor. No one opposed.

#### **Set Budget Workshop Date**

Mr. Owen stated that council has until June 30 for the budget to be adopted. He referred to last year where council had one workshop and adopted it at the June meeting. This year he felt the need to meet a couple of times, one for an overview to give new members an idea of what items are in budget. Mr. Owen asked for a public hearing to be called some time during the budget process. Mr. Eggers stated that it could be adopted following the budget workshop, scheduling it as a special meeting solely for the purpose of adopting the budget. Council members agreed on Tuesday, May 29 at 6:00 p.m. for the first meeting and Tuesday, June 5 at 6:00 p.m. for the second meeting, both to be held at the police department's conference room.

#### **Wooly Worm Committee**

Mr. Owen referred to the letter in council's packet given to him last week from the Wooly Worm Committee. He stated that with the park expansion project underway, several groups have approached him on how the town was going to use the field and its availability to the Wooly Worm Festival if the playground area at the old elementary school became unavailable. Three items discussed, which the committee felt were needed, were a stage, electrical hook up and the bridge would have to be reinforced and upgraded for vendors. Mr. Owen noted that he discussed this issue with Derek Goddard with Blue Ridge Environmental Consultants and he came up with a maximum figure of \$50,000 to complete these extra projects that weren't part of the original park expansion plan. Mr. Owen said that a meeting was held with several committee members.

Mr. VonCanon also attended. They went over the plans for the park expansion. They in turn took a copy of the site plan and brought back to the town their layout of the festival and how their vendors would fit this plan. Mr. Owen noted that the letter included in council's packet shows that the committee is interested in investing financially into the project. He noted that nothing the committee is requesting needs to be done during the course of the expansion, that this October's festival will remain at the old school grounds. The committee's intent is to have an alternate location in the event something changes with the old school's grounds. Mr. Owen stated that there are legal and logistical issues that have to be addressed such as the financial offer and the long term lease. Mr. Owen asked for council's opinion. Bret Gardella addressed council stating that as far as the incubator goes, there are no plans to move any event out of that area or price any event out of the area. He stated that it is not Avery County that is moving the Woolly Worm Committee, that it is their choice. He noted that Avery County is maximizing the property with three new events coming into the Banner Elk area. Mr. VonCanon stated that the town needs to concentrate on the extension of the park. As far as the Woolly Worm Committee's request, he feels that the town needs time to look at this event very carefully due to liability issues. Mr. Lecka stated that the Woolly Worm festival has grown over the years and that the town may need to look at using both locations and then the concern will be the ingress and egress of people. Mr. Owen noted that the fence surrounding the school will soon be taken down. Mr. Gardella stated that the fence was a liability to the county because of its disrepair. Mr. Bolick asked if the funding included the stage. Mr. Owen noted that in the park extension plan there is a bird viewing platform. Their stage would then be part of our stage which will offset some of the town's costs. Mr. Eggers addressed council stating that as they look into the issues related to a long term lease the town might want to consider specifying a time period. There are procedures the town would have to go through if the lease is longer than ten years. Mr. Lecka inquired into the funding of the electrical and water installations. Mr. Owen stated that the committee would be paying for the infrastructure which will be for the town to own and use, not for them to own and control in a public park. Mr. Tufts agreed with the Mayor that the town's top priority is to keep the festival in Banner Elk. He told council that no decision needs to be made at this meeting. Mr. Owen however noted that if parts of their proposal become part of the park expansion project the town would get a better price for the items such as the electrical, which could be a part of the grading. The council agreed that more discussion needs to take place on this subject.

### **Park Site Plan Presentation**

Derek Goddard addressed council. He stated that he has been working closely with the staff to implement a plan that will meet all the grant requirements that are suitable for the town. The plan, he stated, is about 95% complete. At present he and the staff are honing in on the architectural look of the picnic shelter and its features. Mr. Goddard pointed out on the presentation site plan map the picnic shelter and the restroom facility which are located at the south end of the park with handicap accessibility. The picnic shelter is built up on a plateau for flood proof reasons (5 ft.). He noted that there will be a bio retention or rain garden which treats storm water from the site. He pointed out the extension of the trail with a wild flower garden and an informational kiosk. At the barn area there will be a series of exercise equipment which will also be handicapped accessible. Mr. Goddard stated that there will be recycling trash receptacles located around the area. He said that there will be a bird watching station. Other components of

the grant will be landscaping and renovation of the existing restroom facility. Mr. Tufts questioned the handicapped lift station at the bird watching station vs. a ramp. Mr. Goddard stated that the bird watching station will not be elevated unless it becomes a station doubling as a stage for the Woolly Worm Festival. If it is elevated, the lift area will be needed. Otherwise, the bird watching station will just be a concrete pad. Mr. Tufts asked about a space reserved for a climbing structure. Mr. Goddard stated there were several possible sites. Mr. Goddard said that the new trail will be made up of 6 inches of abc gravel with geo fabric under it and 2 inches of asphalt. Ms. Draughon voiced her concern about the bathrooms in the eating area and wanted to know the distance between the two. Mr. Goddard said it was about ten feet. He stated that he and Rick talked about putting up some type of privacy wall. Mr. Goddard then discussed the look of the picnic shelter. There will be heavy timber framing throughout, metal roof, board and batten siding and a rock/stucco foundation. Mr. Owen stated that the present roof design is a 12/12 pitch. Mr. Goddard noted that the reason for the 12/12 roof was that at one point solar panels were considered, but due to cost benefit issues they were deleted. The timber frame will be 6 x 8 douglas fir mortise and tenon. Mr. VonCanon thought that the roof looked overwhelming, that a smaller pitch would be preferred and he thought that the windows needed some character. Mr. Owen commented that he wanted council's input and direction in the appearance of this building. Mr. Goddard then turned the attention towards the restroom renovations in the amphitheater. The bathrooms have been made ADA accessible and baby changing stations have been added. Forced air electric heat is specified in both facilities (commercial grade). Mr. VonCanon stated that the facilities could tie into the natural gas lines. Mr. Goddard stated that he could change the specifications as directed. Mr. Owen proposed that the town run the electrical conduit down the trail for power at the park expansion site. Discussions were held regarding the reinforcement of the asphalt and bridge along with a construction entrance. Other discussions centered on looking at the long term and the possibility of working with the Woolly Worm Committee during this park expansion process. Mr. Goddard stated that once the design work is revised and completed, we will be in a good position to get it out to bid, hopefully in the next couple of months, to begin work this summer and have it completed by the fall. They are giving the contractor a deadline of 100-120 days to complete the park expansion project. Mayor Lyerly noted that during construction a portion of the greenway will be cut off and asked how will this be handled? Mr. Goddard stated that a construction access fence will be installed to cut off portions of the park. Mayor Lyerly's concern was the 4<sup>th</sup> of July event held at the park. Mr. Owen noted that the field isn't utilized right now for that event. However, the trail is used and perhaps we can get a temporary bypass to go across the school property. Mr. Owen said the town will work on ideas to work around this event.

### **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, board of adjustment meeting and bicycle and pedestrian committee. Mr. Owen noted that Chief Bill Burluson wasn't present due to family issues. Also included in the packet were two nice letters to the police department that Mr. Owen wanted to share with council.

Mr. Owen reported that he spoke with Richard Grubb with Mountain Electric regarding the power line coming from our substation to Sugar Mountain. According to Mountain Electric,

they have twelve different options that they are reviewing. They are still several months out from having a recommendation from PIKE, a consulting firm who is helping them collect the data. Mr. Owen invited them to a council meeting or planning board meeting, preferably a planning board since it is less formal, inviting the public to hear about this project with an opportunity for the public to ask questions and Mountain Electric to receive feedback. Council members agreed it was a good idea.

Mr. Owen reported that the renovations to the council chamber were late in getting started. Nils Peterson started the Wednesday after Election Day. Per his contract he has eight weeks to complete the project. Mr. Eggers noted to all present that there will be a second primary election on July 17 for several run off races. If the chamber is not complete by then, it may be advisable to notify the Board of Elections. One of the renovation questions was the table design proposal, specifically the color of the table. Ms. Lyerly thought it might be helpful to ask Bob Mann's thoughts on the color. Mr. Owen stated that council agreed on the concept, but it was not voted on. Mr. Tufts stated that he liked the design, but didn't like that it is entirely laminate. Ms. Lyerly asked the price. Mr. Owen stated that the cost is \$8,000.00. Mr. Owen stated that he would get another quote before the budget workshop.

Mr. Owen noted that a letter and questionnaire from Martin Starnes was in council's packet which they would like council to fill out.

Mr. Owen reported that the storm water cleanout has been rescheduled for the third time to Friday, May 18 due to rain delays.

Mr. Owen also reported that the old school clean up date is scheduled for Friday, May 18 in the afternoon. The town has agreed to assist the county in cleaning and removing items from the school and grounds. Dumpsters will be brought in and our crew will provide backhoes and whatever machinery is needed. A volunteer day has not been scheduled. Mayor Lyerly questioned the use of our Boy Scouts. Mr. Owen stated that the town will have a clean up day in the park so he will ask the scouts for their help then. Mr. Owen also noted that the county commissioners will be at the school Friday morning to help with the clean up. Mr. Owen will talk with the commissioners prior to Friday to go over what will be removed and what will remain, hoping to verify in writing what their intent is.

Mr. Owen stated that the town has received several telephone calls and comments regarding junk cars around town. The town will look into enforcing the ordinance. The cars located on private property will have to be handled a bit differently.

Mr. Tufts questioned the U-Haul rental truck business located on Highway 184. Mr. Owen stated that the town is working with that property's lessee to straighten out the situation. It is a sub-lease situation. The sub-lessee took it upon himself to start that business without contacting the landlord. He is also working with the planning board and board of adjustment to get a conditional use.

At 7:50 p.m. council member Lecka 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 VonCanon seconded. All were in favor.

Mayor Lyerly thanked everyone for coming.

At \_\_\_\_\_ p.m. council returned to open session by a unanimous vote.

Council returned to open session at \_\_\_\_\_ p.m.

**Other Business**

Mr. Owen reviewed some information with council in reference to properties adjoining the park extension project.

At \_\_\_\_\_ p.m. Mr. Tufts made a motion to adjourn the May meeting. Mr. Lecka seconded. All were in favor

**Adjourn**

The town council meeting adjourned at \_\_\_\_\_ p.m.

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Mayor Brenda Lyerly

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Steven R. Smith  
Finance Officer/Clerk

Approved: June 11, 2012