

BANNER ELK TOWN COUNCIL
October 10, 2011
MINUTES

The Banner Elk Town Council met Monday, October 10, 2011 at 7:00 p.m. at Banner Elk Town Hall for their regular scheduled meeting.

Council Members present: Mayor Pro Tempore Brenda Lyerly, Gail Draughon, and Robert Tufts.

Staff present: Town Manager Rick Owen, Steve Smith, Chief Bill Burleson, Cheryl Buchanan and Town Attorney Four Eggers.

Others present: Jim Swinkola, Allen Bolick, Charlie and Penny VonCanon, Mr. & Mrs. Ted Silver, Bill and Donna Dicks, Robert Wiseman, Bret Gardella, Jamie Shell of the Avery Journal and other interested parties.

Call Meeting to Order

At 7:00 p.m. Mayor Pro Tempore Brenda Lyerly called the regular monthly meeting for October 2011 to order.

Pledge of Allegiance

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

Invocation

Council member Robert Tufts opened the meeting with prayer.

Public Hearings

Mayor Pro Tempore Lyerly stated that there were three (3) public hearings noted on the agenda. Ms. Draughon made a motion to open the public hearing for the Grandfather Home for Children annexation request. Mr. Tufts seconded. All were in favor.

1. Grandfather Home For Children annexation request. Mr. Swinkola requested that since GHFC was listed as item #1 on the agenda, he felt it would be more appropriate to address council at that time. There were no other comments from the public. Mr. Tufts made a motion to close the GHFC public hearing. Ms. Draughon seconded. All were in favor.

Mr. Tufts made a motion to open the public hearing for the zoning of the new school property. Ms. Draughon seconded and all were in favor.

2. Zoning for new school property. Rick Owen addressed council stating that the new elementary school was not annexed until the school was built. Once built back in September of last year, the school was annexed into town, but was not zoned. Now the planning board is making a recommendation to town council to zone the property educational / medical. Mr. Charles VonCanon had a question to present before council. He asked if the Puckett house was

included in the zoning of the new school and Mr. Owen stated that it was not. There were no other comments from the public. Ms. Draughon made a motion to close the public hearing for the zoning of the new school. Mr. Tufts seconded. All were in favor.

Mr. Tufts made a motion to open the public hearing for the sign ordinance amendments. Ms. Draughon seconded. All were in favor.

3. Sign Ordinance Amendments. Mr. Owen stated that the sign ordinance amendments were presented to council at September's meeting. The changes and revisions were made available for public inspection. Most were clarifications to the ordinance and there were a few changes showing how combined development signage square footage is calculated. There were no comments from the public. Mr. Tufts made a motion to close the public hearing for the sign ordinance amendments. Ms. Draughon seconded. All were in favor.

Approval of the Minutes

Mayor Pro Tempore Lyerly asked council for a motion to approve the September 2011 minutes. Council member Draughon motioned to approve the minutes as written. Council member Tufts provided a second. The September 2011 minutes passed with all in favor, none opposed.

Approval of the Stated Agenda

Mayor Pro Tempore Lyerly stated to council that the agenda presented to council would have to be amended. Item #5 would be removed from the agenda because the parties involved could not attend. Ms. Tufts made a motion to approve the revised agenda to exclude item number 5. Ms. Draughon seconded the motion. The revised agenda passed with all in favor.

Citizen Concerns

There were no citizen concerns.

Special Presentation

Mayor Pro Tempore Lyerly introduced Bret Gardella, the director of the Avery County Economic Development. Mr. Gardella addressed council about the project A.C. PR.I.D.E. The project is a professional and retail incubator. The goal of PRIDE is to create new businesses, vibrancy and wealth in the business sector of Avery County, creating jobs for its people. The program has partnered with Mayland Community College and Lees McRae College to be a technology based incubator, bringing education into this project as well. In addition to the incubator space Mr. Gardella feels that there is a great opportunity with some of the outside spaces to bring in full service businesses (i.e. artists, dessert stores, etc.) and meeting rooms or board room spaces relating to the businesses. He wants to keep the building alive and build a new future for it. In addition, an interesting future related project is a culinary school that Mayland Community College wants to create. Avery County wants to maintain such crowd gathering events such as the Wooly Worm Festival, art festivals, etc. There are security issues, repair issues (i.e. the roof, the boiler), expenses that have to be faced whether it is used for this purpose or not and the taxpayers of the county will have to cover such expenses. The ultimate goal is to create a self sustaining building that would be able to grow businesses and have the enterprise pay for itself. Mayor Pro Tem Lyerly asked if this was a done deal. Mr. Gardella

stated that the old school was still in the process of being transferred to the county. The Avery County Commissioners discussed the proposal in a public meeting and there was no opposition. He stated that there was no down side to this project. It is long term. He is looking at a spring 2012 kick off date. Mr. Tufts stated that he and the town would like to see the building preserved. He asked if some spaces could be for community use. Mr. Gardella stated that their goal was not to exclude but to include. Ms. Draughon noted that when this idea came about, it dampened the hearts of many people of Banner Elk who want the building to be a community center. Mr. Gardella stated that this project is not to create disharmony amongst people in Banner Elk and the Avery County Commissioners, and the rest of the county, but to move Avery County forward by being aggressive and innovative helping business owners get into business and grow their business.

Grandfather Home for Children Annexation and Sewer Line Project

Mr. Owen stated to council that two issues were on the agenda: first was the second public hearing for the GHFC annexation request and the second was the sewer line project. The staff prepared an easement agreement for the rehabilitated sewer lines on Grandfather Homes' property. Mr. Swinkola declined the proposed terms of the agreement and declined to sign the agreement. Mr. Owen stated that at some point the council may wish to hold off for closed session to discuss the mediated settlement.

Mr. Swinkola addressed council and introduced Don Young who is in charge of the properties. Mr. Swinkola thanked council for giving them a second public hearing and also thanked council for the agreement. Although Mr. Swinkola did not sign the drafted agreement and hopes it will not dampen the discussion regarding the annexation request. He questioned item number 2 on page 1 of the agreement, the size of the easement. He stated that he also had an alternative to establish the same goal. He presented three photos. The fifteen foot easement on either side of the sewer line comes within 7 to 8 feet of the corner of one of their buildings where the children live. Mr. Swinkola's concern is for the protection and safety for the children at GHFC. His compromise would be a trail on the south side of Hickory Nut Gap Road which would be the same intent as that stated in the agreement, ending up at the same spot but using a different trail. Mr. Swinkola thanked council again for keeping the momentum going and thanked them for the second public hearing.

Mayor Pro Tem Lyerly responded to Mr. Swinkola stating that she agreed that the town shouldn't be that close to where the children reside and thanked him for giving them an alternative. The council will take what he stated under consideration. Mr. Tufts asked Mr. Owen if the town is taking over these sewer lines, do we have to have some type of easement in order to service them? Mr. Owen stated that the judge's consent order required the town to get an easement on the sewer line. The town has never had one. No matter what happens with the discussion regarding this annexation, the town needs to move forward with getting an easement across the sewer lines in writing, for maintenance and repairs. Town attorney Four Eggers stated that this item would be addressed in closed session.

Zoning of New School Property

Cheryl Buchanan stated to council that the planning board met and recommends to council that the zoning for the new school property be medical/educational. Mr. Tufts made a motion to approve the zoning for the new Banner Elk Elementary School as medical/educational. Ms. Draughon seconded. Mr. Tufts asked if the zoning was just for the school property. Cheryl Buchanan stated zoning was just for the school property. She told council that the old Puckett house was not in the town limits, was not in the ETJ and that the town has no jurisdiction over that piece of property. All were in favor of zoning the new school property. None were opposed.

Sign Ordinance Amendments

Cheryl Buchanan stated to council that these amendments were more clarification of the sign ordinance. The most notable change was made to Table 608-2 which the planning board made into two tables. Areas further out of town that are less densely populated could support larger sign requirements than those commercial areas in the downtown part of Banner Elk. Therefore, two tables are being proposed with different size requirements. Council member Draughon questioned Section 600.2 Sign Colors. She stated that earth tones and natural can mean so many colors. Cheryl noted that the planning board does have a color chart which serves as a guideline and also pointed out that she has to approve all signage before it is displayed. Mr. Owen stated that the wording of this particular section and the color chart is very hard to interpret and that Banner Elk's color chart which is noted in this section is the preferred guideline. Town attorney Eggers stated that if a party disagrees with the zoning administration's interpretation, they would have the right to appeal as with any interested party. The Board of Adjustment would then make a ruling as to what is meant by this section. Mr. Owen asked Mr. Eggers if the wording in the first sentence of Section 600.2 should be changed or rephrased. Mr. Eggers stated that he was comfortable with the language that is included in Section 600.2 as it will be the duty of the Board of Adjustment to determine consistency with the ordinance as it is written along with the color chart and apply that based upon the intent of the ordinance. Mr. Eggers stated that as a practical matter it would be much simpler for applicants to have a clear distinction as to what they should and should not do. However, this is a decision for council to make. How much direction does council wish to give? Cheryl stated that the planning board will discuss this topic further. Council member Tufts made a motion to approve the sign ordinance amendments. Council member Draughon seconded. All were in favor.

Rock the Blue Ridge Bike Ride

Mayor Pro Tem Lyerly introduced Lora Elder. Ms. Elder is a strong supporter of sport tourism. She is particularly excited about 2012's 100 mile bike ride event that will circulate through Banner Elk, Beech Mountain and along the Blue Ridge Parkway. This 100 mile distance will be known as a "Century" and will be the gold standard of biking events attracting large organizations as participants. Ms. Elder is requesting the support of the Town of Banner Elk for this one day event. Mr. Owen directed council's attention to the proclamation which is included in their packet which lends support to what Lora is doing around the area. Mr. Tufts made a motion to support the proclamation. Ms. Draughon seconded and all were in favor.

Proposed Equipment Purchase

Mr. Owen addressed council. He stated that during the budget workshop we discussed the need for a piece of equipment to clear the town's sidewalks in the winter and perform other tasks around town. Steve Smith started researching a multi-use tractor and came across the Ventrac which has multiple attachments that can be purchased to perform such tasks as mowing, sweeping the sidewalks, etc. It has 4-wheel traction and has maximum maneuverability. Lees McRae has this tractor. They've had it for four years and they highly recommend it. A short video was viewed by council. Staff recommended to council that we have someone come to town to give us a demonstration of the tractor and make some recommendations for the attachments. The attachment list is included in the packet. The price quoted is with all the attachments listed. This would come out of our capital reserve. As mentioned, once the town has a demonstration of the tractor and its attachments, we will then come back to council with a final price. Mr. Eggers stated that the town would have to collect three informal bids for a Ventrac or piece of equipment that is comparable. They would have to go with the cheapest dealer, not the most local dealer. Mr. Owen stated that we would prefer to have council specify the Ventrac 4231TD. It has a 2-year warranty for commercial use. Council member Tufts made a motion to get bids for the purchase of the Ventrac tractor. Council member Draughon seconded. All were in favor.

Tax Release

Cheryl Buchanan addressed the council. She stated that the town inadvertently taxed a business that is located in the ETJ, an area not within the town's tax jurisdiction. She asked that council release Tax Bill #01555 in the amount of \$4.84. Council member Tufts made a motion to approve the tax release. Council member Draughon seconded. All were in favor.

Manager's Update

Town Manager Rick Owen reported that staff and committee reports were in the council's packets along with the Banner Elk Planning Board October's meeting minutes.

Mr. Owen stated that the town needed to call for a public hearing. Three years ago the planning board and town council approved a subdivision at the end of Hemlock Place. Mr. Rebhan is putting in a private sewer line at the top part of Hemlock Place and a portion of that sewer line will cross the public right of way for the road. He needs an easement to have a private sewer line in Hemlock Place. Mr. Owen requests a public hearing so that we can receive feedback from the public on this private sewer line. Council member Tufts made a motion to hold a public hearing at next month's meeting, November 2011. Council member Draughon seconded. All approved.

Mr. Owen reported to council of the upcoming collegiate mountain bike races to be held October 15 and 16, the same weekend as the Wooly Worm Festival. Although there will be no road racing (it will be campus tracks and cross country), there will be collegiate teams coming into Banner Elk. Lees McRae will be putting up signs noting "bike event" along where traffic will be and the town will allow Lees McRae to close Mill Pond Road for cycling purposes.

Mr. Owen reported that on October 29, 2011, Lees McRae will be having an Electronics Recycling event which they've held for several years now. It will be held from 10:00 a.m. until 4:00 p.m. A truck will be parked on Culver Street. Notices were sent out on the town's water bill and we will inform the Banner Elk Chamber of Commerce.

Mr. Owen addressed council member Draughon. She had questioned the hesitancy of council in dealing with Mr. Bob Barinowski's request for sewer service out to his property. Mr. Owen stated that he talked with Mr. Barinowski and at this point he doesn't wish to continue with the request. He has some other ideas and is even looking into town council's suggestion of buying property in the town limits.

Mayor Pro Tem Lyerly recognized Rick, Nancy and Hampton Owen for their time and work at the Holiday Market the previous weekend. She thanked them for their time at the Centennial Weekend and the upcoming Woolly Worm Festival. She thanked them for all they do. Mr. Owen appreciated her recognition.

At 8:50 p.m. council member Tufts motioned to have council proceed to closed session. Council member Draughon seconded.

Mr. Owen noted to Mayor Pro Tempore Lyerly that a boy scout was in attendance. Ms. Lyerly apologized for not recognizing the young man sooner. He introduced himself as Liam Hoffman with Troop 807 in Banner Elk. He is working on a citizenship merit badge. Ms. Lyerly then thanked everyone for coming.

At 9:20 p.m. Ms. Draughon motioned to end the closed session portion of the meeting. Mr. Tufts seconded.

Adjourn

The town council meeting adjourned at 9:20 p.m.

Mayor Pro Tempore Brenda Lyerly

Steven R. Smith
Finance Officer/Clerk

Approved: November 14, 2011