

**BANNER ELK TOWN COUNCIL**  
**September 10, 2012**  
**MINUTES**

The Banner Elk Town Council met Monday, September 10, 2012 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

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

Others present: Rebecca Bolick, Ted Silver, Mike Halus, Derek Goddard, Justin Church, George Myers, Judy Bond, Jamie Shell of the Avery Journal and other interested parties.

**Call Meeting to Order**

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

**Pledge of Allegiance**

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

**Invocation**

Council member Bolick opened the meeting with prayer.

**Public Hearing: Speed Limit – Silver Springs**

Mayor Lyerly opened the public hearing and asked Rick Owen to address council. Mr. Owen stated that a resolution would be presented this evening to adopt a speed limit for Silver Springs Drive of 20 mph. He noted that it was previously discussed with council that certain streets will require an ordinance to set the speed limit. Mr. Owen had discussions with the developer of Silver Springs and the developer indicated that he would like the speed limit posted at 20 mph. Mr. Owen also noted that several property owners were present and would like to speak about the change in the speed limit. Mike Halus addressed council thanking them for the opportunity to present his concern for this issue and also thanked council for the outstanding support from the maintenance personnel for taking care of the subdivision's roads. He passed out a handout showing the curving road of Silver Springs Drive beginning at the intersection of Old Turnpike Road continuing over the crest of the hill into the Silver Springs Estates, a George Myer development. Mr. Halus stated that the road is only .2 of a mile but in that span it has five curves and a steep incline. The road has no sidewalks, so homeowners use the street for walking. His concern is safety. He requests that the town put up two 20 mph signs, one at the base going up the hill and one at the top as the cars come down. Judy Bond addressed council stating that she is also in favor of the 20 mph. George Meyer, Jr., the developer of Silver Springs, thanked council for their cooperation with the development and stated that the posted speed limit signs are needed. There being no further comments, Mayor Lyerly closed the public hearing.

### **Approval of the Minutes**

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

### **Approval of the Stated Agenda**

Mayor Lyerly asked council for a motion to approve the September 2012 agenda as written. Council member VonCanon made a motion to approve the agenda as written. Council member Bolick seconded the motion. The agenda passed with all in favor.

### **Citizen Concerns**

There were no citizen concerns.

### **Silver Springs Speed Limit**

Mr. Owen presented to council an ordinance amendment which showed Silver Springs Drive at 20 mph. He noted that one change was made to the ordinance after the council packets were already distributed. The change occurs at the first “whereas” which reads “the portion of Silver Springs Drive located inside the Silver Springs subdivision should have a lower speed limit than 35 mph”. If approved, the mayor will sign the ordinance. Council member Tufts asked about the speed limit on the upper end outside of town limits. Mr. Owen stated that the town can’t regulate the subdivision wide speed limit outside the town limits. Mr. Eggers noted that if it is not a state maintained road, the county could. Council member VonCanon made a motion to set the speed limit at 20 mph on Silver Springs Drive with the condition that the town manager put out a disclosure about the lower portion. Council member Bolick seconded the motion. All were in favor. No one opposed.

### **Park Extension Update**

Mayor Lyerly called upon Derek Goddard. Mr. Goddard distributed several handouts to council members. He stated that since their last meeting, the park project was rebid in two separate projects as was approved by council: the building construction phase and the site work and grading phase. He noted that there was a bid opening on Friday, September 7<sup>th</sup>. Mr. Goddard went over the tabulation of the bids that were received, broken into the two bids. The town has three options: accept the bids as written, reject all the bids or it can be tabled. Mr. Goddard met with Mr. Owen and Mr. Eggers. It is the recommendation of BREC and the town manager that we table these bid submittals in order to allow us more time to go over the figures and costs submitted and come up with a plan with which we will be more comfortable. Mayor Lyerly asked why one bid was pending. Mr. Goddard stated that the bidder was nonresponsive and that the paperwork wasn’t submitted correctly. Council member Tufts asked to explain the difference between site based bid and building based bid. Mr. Goddard stated that the site based bid is the actual grading of the site, the asphalt trail, seeding, erosion control, etc. The building based bid is the construction of the picnic facility structure and the renovation of the existing bathrooms. Council member VonCanon stated that there was a large difference in the site based bid and asked if he received a breakdown of the costs and time frame. Mr. Goddard stated that they did not ask for unit pricing on all of the grading options (i.e. silt fence, seed, fertilizer, etc.). Mr. Goddard went over the smaller handout sheet where we bid the project as one complete project.

Council member Bolick asked that if we do take more time to go over the bids, what is the time frame? Mr. Owen stated that we would call for a special meeting. Mr. Owen also noted that the bids are coming in much higher than what we budgeted for this project. He said that the town needs to look at what can be done by the staff, how much of it is actual dollars saved and how much of it is labor. He also wants to look at the possibility of other funding sources. Council member VonCanon made a motion to table the park extension bid until further information is compiled. Council member Draughon seconded. All were in favor. No one opposed.

### **Call for Public Hearing – Zoning Amendment: Incubators**

Mr. Owen addressed council stating that he along with Cheryl Buchanan, Allen Bolick, Bret Gardella and Commissioner Glenn Johnson met to discuss changes in wording for the amendment of the incubator ordinance to allow for anchor businesses. He noted that something that needs to be added is the provision for an anchor business, an established business that would pull other businesses into the incubator. A square footage question also came into play as far as how do we determine how much room can be used for an anchor business. Mr. Owen discussed this issue with Mr. Eggers and it was determined to give guidance versus total lock down on the square footage. One possibility would be an “up to” number. This would leave the board of adjustment the ability to go down to a lower number rather than a higher number. He recalled that the two numbers discussed were 20% or 25% of the building for this type of business which was in Bret Gardella’s original proposal. Then there was discussion of 30%. Mr. Owen’s feeling is that a different incubator might need a different number, might need more for one and less for another. He doesn’t want it to get so high that it becomes a mini mall. The town asked for legal advice as to the wording in order to give the county what they need, but at the same time have the ability to limit it. He asked Mr. Eggers to clarify. Mr. Eggers stated that it should read “up to a percentage of the total heated floor space” which is a definition also used by the building code. He added that the up to number can be used as guidance for the board of adjustment to see that it is complied with. Mr. Owen noted to council that on page 17 of their agenda packet under Anchor Business, the wording would then read “occupy up to” a designated percentage. Mr. Eggers noted that it has to be a specific number. Mayor Lyerly asked if everyone was comfortable with 30%. Council member Tufts questioned 14(d)(x) specifications of the grease trap for the culinary school’s needs. All potential incubators will not have a culinary school thus he felt the wording should be different. Mr. Eggers stated that the words “if applicable” could be inserted, leaving out culinary school and restaurant. Mr. Owen asked Mr. Eggers if the town should add such wording as “other zoning requirements”. Mr. Eggers stated that it is implied. Mayor Lyerly stated that the wording will be updated and changed and called for a motion. Council member VonCanon recognized council member Draughon who noted several months ago that this ordinance needed work. He thanked her, the planning board, the town manager, Cheryl and all interested parties and felt that they did a wonderful job. Mr. Eggers noted that it would be a requirement when the board of adjustment approves the overall incubator, to discuss the educational component. He said that the town could clarify or add to what is expected of an anchor business. Council member VonCanon made a motion to approve the amended ordinance, under Sections 200 and 922, and call for a public hearing at the October meeting. Council member Tufts seconded. All were in favor. No one opposed.

### **Call for Public Hearing – Zoning Amendment: Signs**

Cheryl Buchanan addressed council. She stated that she asked the planning board to consider adding a small rider sign to existing business signs which would include a QR code or a text-to-text number in order to help them with more up to date advertising. The problem is these QR codes cannot be sandblasted or carved into wood. They would have to be laid out on a flat surface. Ms. Buchanan noted that she added a definition to the ordinance that allows any business to display the QR code or a text-to-text number only in order for those with the capability to further their business. Council member Tufts felt that the new phrase “cannot exceed one square foot” was a bit excessive. Ms. Buchanan stated that the size started out the length of a real estate sign and 1 inch high. Mr. Tufts thought 6” x 6” would be a good size. Mr. VonCanon asked the color. It would be black and white. Mayor Lyerly stated that it is amazing how far technology has come. Ms. Buchanan noted that commercial real estate signs can be 3 square feet and residential can be 2 square feet. She felt that this is a good way for the town to become more in tune with today’s technology. Mayor Lyerly noted that it will make the town more business friendly. Mrs. VonCanon stated her concern to Chief Bill Burleson about safety issues, being similar to texting. Council members again stated their concern over size. Council member VonCanon asked Ms. Buchanan to research what size really works and what other towns are using. Mr. Owen stated that we can move forward to call for a public hearing and can further research the size factor before our next meeting. Council member Tufts made a motion to call for a public hearing at October’s meeting. Council member VonCanon seconded. All were in favor. No one opposed.

### **Tax Release**

Cheryl Buchanan addressed council stating that Phillip Barrier, tax assessor for Avery County contacted her regarding units 7 and 8 at Mill Pond Manor. He told her that his office made a mistake in the valuation of the two units. Ms. Buchanan notified each party to the discrepancy. The owner whose value went up already paid his tax value. Ms. Buchanan recommends to council that the town release the monies (\$825.74) on the unit the county over valued. Council member VonCanon made a motion to approve the tax release. Council member Draughon seconded. All were in favor. No one opposed.

### **Planning Board Vacancy**

Cheryl Buchanan told council that Dawn Sellers submitted a letter of resignation from the planning board effective August 31, 2012. She noted that Jillian Rosato was on the planning board as an ETJ representative, but when she moved into the town limits she had to step down. Ms. Buchanan has spoken with Mrs. Rosato and she has agreed to serve the remainder of Dawn Sellers’s term. Ms. Buchanan noted that she has the experience and that she enjoyed being on the board. Council member Bolick made a motion to approve the appointment of Jillian Rosato as an in-town representative for the planning board. Council member Lecka seconded. All were in favor. No one opposed.

### **Open New Bank Account**

It was noted that the town, until recently, had a money market account with Highlands Union Bank. Because the town had too many unforeseen withdrawals, the account reverted to a regular

non interest bearing checking account. Mr. Smith asks council to approve opening an interest bearing account. Council member Bolick made a motion to give Steve Smith the authority to open a new money market account. Council member VonCanon seconded. All were in favor. No one opposed.

### **CDBG Scattered Site Housing Grant – Local Government Participation**

Mr. Owen addressed council. He stated that there is a program offered to the county that the High Country Council of Governments heads up. They ask that the municipalities participate, but don't get any participants. Mr. Owen attended a meeting last week and felt that it was the town's obligation to participate, seeing the work that they do, it is a tough job. Mr. Owen would like to be a part of the committee to help with the project. He stated that there is a list of applicants who apply for money for home renovations and home repairs that have no other means to make repairs to their own homes. Three years ago the county received \$400,000 and were able to help five families or five homes. Three of the homes had to be torn down. Double wide trailers were purchased to replace the homes. There were approximately 50 applicants from three years ago that the county wasn't able to help, so they are still on the list with an additional 10 or 15 new applicants. The money has been cut this year down to \$225,000. Mr. Owen felt it is something worthwhile and the town should be involved. If the town participates, the mayor will have to sign a certification form. Council member VonCanon made a motion that the town manager, representing the town, participate in the SSH project. Council member Bolick seconded. All were in favor. No one opposed.

### **Manager's Update**

Mr. Owen reported to council that the financial reports, police reports, planning, zoning and tax collection reports were included in their packets along with minutes from the planning board and the High Country ABC Board July meeting minutes. Mr. Owen also included in their packets a letter from Cheryl to Lees-McRae regarding the proposed nursing program and building. The town wanted Dr. Buxton to know in writing some of the guidelines that the town expects. He responded to Cheryl in an email and sent it to several members at Lees-McRae so that everyone would be on the same page.

Mr. Owen told council that regarding the council table he met with the contractor and Bob. He stated that Bob is an instrumental part in making sure we get what we want. The contractor is working up some different things and patterns. He feels it will be nicely crafted and it will be custom made. He added that the design changed somewhat. Originally it had 10 seats with the mayor's seat off centered. We are now looking at 9 seats and trying to get the table centered. Mr. Owen also brought up the stripes in the carpet. There are five light colored lines. At our last meeting, we were going to order new carpet and replace it. They ordered the carpet, but it too has the same lines running through it. The manufacturer has come in and tried different things. It came down to cost. Mr. Owen stated that he made the recommendation that the town keeps the carpet. The town will just pay for the installation, saving \$1,700.00. Mr. Owen wants council to be comfortable with the decision.

Mr. Owen reported that in April 2011 the town applied for Shawneehaw Creek to be put into the public mountain trout water program. In August it was accepted into the program. Mr. Owen

was unaware of it until he saw the signs located in the park. The creek is now in that program and they will start advertising as such (i.e. requirements for fly fishing, size of fish, etc.). Mr. Owen stated that he will get council all the specifics.

Mr. Owen reported that in regards to the Greenway Trail extension work, a survey is posted on line on the town's web site and also a letter about the survey went out with the annual water report a couple of weeks ago. The town had an open house from 8:30 to 6:30 p.m. on September 6<sup>th</sup>. Ted Silver reported to council that there was little notice. There were about 7 people that filled out the survey during the open house. Everyone is very supportive of the extension. We are hoping to have another open house in October and a follow up mailing along with an article in the Avery Journal in hopes of getting a better turn out and more support. Mr. Silver stated that when the survey is complete, he will report back to council with the results.

Mr. Owen stated that town performed a road survey and that we allocated money in the budget for paving. Mr. Owen told council that he is working on a recommendation. He asked council if they want to wait for the recommendation or are they comfortable with the town staff spending the money that we budgeted for paving on roads that are in most need of repair. Mayor Lyerly stated that she is comfortable with Mr. Owen selecting the roads that need to be repaved. She said that Mr. Owen knows how much money we have and what is needed. Mr. Bolick would like to know which roads before they start paving so he can better inform the citizens who ask. Mr. Owen noted that the town has already received prices and that the staff is now trying to break down not just by need but by practicality. The town wants to accomplish this project before winter. Mr. Owen stated that he will email council members.

Mr. Owen told council that the town has a map from Mountain Electric regarding the new lines.

Mr. Owen reported that the next meeting is on Columbus Day, which is a paid holiday for staff, noted in the town's personnel policy. Discussions were had as far as changing the date of October's town council meeting. It was decided to leave it on October 8.

Council member Tufts reported that Lees-McRae's outdoor education program is hosting on Thursday night the Real Rock Film Festival, which is specifically rock climbing. The doors open at 7:30, the film starts at 8:00, and costs \$7.00.

At 7:05 p.m. council member VonCanon motioned to have council proceed to closed session pursuant to NCGS 143-318.11 (a)(3) Attorney-Client matters. Council member Draughon seconded. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.

Council returned to open session at 7:22 p.m.

### **Other Business**

There was no other business.

At 7:30 p.m. Council member Bolick made a motion to adjourn the September meeting. Mr. Tufts seconded. All were in favor

**Adjourn**

The town council meeting adjourned at 7:30 p.m.

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Mayor Brenda Lyerly

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Steven R. Smith  
Finance Officer/Clerk

Approved: October 8, 2012