

BANNER ELK TOWN COUNCIL
September 9, 2019
MINUTES

The Banner Elk Town Council met Monday, September 9, 2019 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

Staff present: Town Manager Rick Owen, Cheryl Buchanan, Chief Kevin Hodges, Justin Hodges and Attorney Four Eggers.

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting of September 2019 to order.

Pledge of Allegiance

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

Invocation

Council Member Bolick opened the meeting with prayer.

Special Presentation – Banner Elk Police Department

Chief of Police Kevin Hodges reported that he was proud to announce that three officers have worked hard to achieve a higher level of training and education. He introduced Officer Justin Spear. Chief Hodges stated that Officer Spear has been with the department for almost five years. He received his bachelor's degree from ASU and has over 160 hours of additional training. Chief Hodges presented Officer Spear with the Intermediate Law Enforcement Certificate.

Chief Hodges reported he along with Lieutenant Orrie Smith and Sergeant Mike Henley went to Raleigh on August 16th where they received the Advanced Law Enforcement Certificate from the Commission, who controls what we do and how we do our job. He noted that they both have a minimum of 12 years of experience and almost 1,000 hours of additional training. Chief Hodges noted that Lieutenant Smith's Advanced Law Enforcement Certificate is signed by the Attorney General of the Director of the Training Standards Commission and all of the members of that Commission.

Mayor Lyerly congratulated the three police officers and thanked the entire Police Department for their service to the Town.

Mayor Lyerly also noted that the Avery Journal recognized Lieutenant Orrie Smith as the Best Police Officer in Avery County and Rick Owen as the Best Town Manager in Avery County. She stated that this past Friday night at the High Country Council of Government's dinner, Rick Owen received the Outstanding Local Government Manger of 2019 award.

Approval of the Regular Meeting Minutes

Mayor Lyerly asked for a motion to approve or amend the August 12, 2019 Regular Meeting Minutes. Council Member Lecka motioned to approve the minutes as written. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Approval of Stated Agenda

Mayor Lyerly asked for a motion to approve or amend the stated agenda. Council Member Bolick motioned to approve the stated agenda. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Public Comments

Mr. Owen reported that Dr. Carol Berns and Ted Silver have donated to the Town a right-of-way easement across a piece of property they own that will give the Town access to a water tank site. Mr. Owen noted that Mr. Silver was doing some research some years ago and it came to his attention that the Town had been using a right-of-way for an easement to the water tank at the top of Laurel Lane that the Town did not have an easement to for the route the Town has been using. He stated that in return, Dr. Berns and Mr. Silver would like the Town to pay for the court costs and preparation of the deed documents that have been done. Mr. Owen would like Council to recognize this contribution to the Town. Council Members thanked Dr. Berns and Mr. Silver for their generosity.

Transportation Agreement for Involuntary Commitments

Mr. Owen reported that this transportation agreement is mandatory for the Town and that the County has been regulated to do it. He noted that in the past with regards to the involuntary commitments, the Sheriff's Department handled the transportation and the costs related to it, but the way the new NC General Statute is written, the County has a plan and part of the plan is for all the municipalities and all the sworn departments in the County to participate in transportation for involuntary commitments. Mr. Owen stated that included in Council's packets is the agreement that the County has prepared which is in agreement with the State Regulatory Commission. To the best of his knowledge, all the other towns within Avery County will sign the same document which will then be presented to Avery County by October 1, 2019. Attorney Eggers reported that this agreement essentially makes sure that everyone is aware that there are a set of obligations. He noted that in the past the watching of the hospital and the transporting to and from hospital those who are involuntary committed to a mental health institution was the responsibility of the Sheriff's Department. Attorney Eggers stated that the memorandum that Council has in front of them mirrors the NC statutory requirement. It is as much as making sure that there is something in writing for all towns, making them aware of this new State statute so that everyone is on the same page. Sheriff Hodges noted that potentially this could put a burden on the Town's Police Department as of not having an officer in Town for a period of time. He also explained the procedures involved in this type of transportation and the number of such occurrences that happened in past years. There was discussion regarding what office responds; Sheriff or Police. Attorney Eggers stated that generally it relates to where the person lives or where the person is located. The Sheriff generally makes the initial response, but if it is determined to be in Town, it is the Town's responsibility. There was also discussion regarding costs involved in the transportation and the expenses incurred by the Town. There being no further discussion, Mayor Lyerly asked for a motion. Council Member Tufts motioned to approve the Memorandum of

Transportation Agreement. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

System Development Fee (SDF) Analysis

Mr. Owen reported that the Town charges impact and availability fees for water and sewer connections to the Town's system. In July 2017 the State legislature made changes to its General Statutes regarding how those fees can be charged and the basis for which a municipality charges for those fees. He noted that it stemmed from a lawsuit in which a developer sued for being overcharged for future improvements that were going to be made to a system and he felt like he shouldn't be paying those fees. Ultimately, he won the suit. Mr. Owen stated that the new statute has formulas in it instructing a Town how it should be calculating its fees. The Town has not gone through this process yet. It needs a CPA or an engineering firm to perform a study, an analysis of the Town's fees and future fees that the Town needs to charge to cover the costs of connecting to the system. Mr. Owen reported that he consulted Attorney Eggers and David Poore regarding the need to have this study done and they agreed it should be conducted by McGill Associates who has completed 15 System Development Fee (SDF) studies for other municipalities in our area. He stated that McGill submitted a proposal to the Town, which is included in Council's packets. The proposed fee is a maximum, not to exceed \$8,200. Mr. Owen noted that not only is it statutory regulated that the Town has to perform this SDF analysis, but also it is a good idea because we need to do it. The Town hasn't changed its fees in at least 10 years. Mr. Owen stated that there is potential development coming into Town with significant fees associated with it and we certainly wouldn't want to charge fees that aren't legal or charge fees that are under what the Town should be charging. Mr. Owen reported that the Town and Attorney Eggers have worked with Dale Schepers with McGill Associates before and we both are quite confident that he will produce a good work product for the Town. He noted that Council Members will have a chance to meet him. There will be a public hearing and public meetings to present the SDF analysis. Mayor Lyerly asked for a motion. Council Member Lecka motioned to approve the proposal for the SDF analysis. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Appointment of Firemen's Relief Fund Board Member

Mr. Owen noted that the Firemen's Relief Fund (FRF) was established in 1907 to financially assist firefighters that are injured while performing their duties. To be eligible to receive funds for a Local Firemen's Relief Fund (LFRF), the fire department must follow several guidelines. One guideline is that the fire department must appoint a Local Relief Fund Board (LRFB) consisting of five members. Two members serving at the pleasure of the fire department elected by the membership who are qualified as beneficiaries of the fund. Two of whom shall be elected or appointment by the Mayor, Board of Alderman, or City Council if it is a municipal department, or other local governing body. If it is a non-municipal department, two are appointed by the County Commissioners. One member is appointed by the Commissioner of Insurance. If the local fire chief is not one of the members appointed, he shall serve as an ex-officio member of the local Board. Mr. Owen stated that the Banner Elk Volunteer Fire Department is asking the Town to appoint Gary Miller in a vacancy on their Local Relief Fund Board. He noted that the vacancy is from Joe H. Perry. The other Town appointed Board Member is Roscoe Townsend. Council Member Lecka motioned to approve the appointment of Gary Miller. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Recognition of Former Board of Adjustment Members

Cheryl Buchanan stated that in reviewing prior year meeting minutes, she found that two gentlemen served on Town boards for a very long time. She noted that Mr. Joe H. Perry served on the Planning Board prior to serving on the Board of Adjustment, first as an ETJ alternate in January 1990, then as an ETJ regular member in May 1990. He served the Town of Banner Elk for 29 years. Ms. Buchanan stated that Mr. Jimmy Ollis served on the Board of Adjustment representing the ETJ from July 1998 until October 2018, close to 21 years. She stated that she talked with Mr. Owen about the Town recognizing these two men for their faithful service to the Town. Ms. Buchanan asked Council to consider having a brick engraved with their names and the dates they served on the BOA and place them near the entrance to Town Hall along with a letter from Council thanking them for their service. Council Members agreed and felt it was a very good idea. Mayor Lyerly asked if the Town could also get bricks engraved for former Town Mayors. Mr. Owen and all Council Members agreed.

Tax Releases

Cheryl Buchanan reported that the first bill is 5A (#1110), a business which was sold and the County did not have the correct information or the correct amount for the new owner. She noted that she needs to release this bill in the amount of \$598.34 and rebill the new owner. Ms. Buchanan reported that the second bill is 5B (#582), a business, High Country Lawns, which is no longer in Town. The amount that needs to be released is \$38.34. Ms. Buchanan noted that the third bill is 5C (#817), another business which is no longer in Town. The amount that needs to be released is \$23.12. She noted that she has contacted the County to have both of these accounts taken off the scroll. Council Member Tufts motioned to approve all three tax releases. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Resolution for 2020 Census Partnership

Cheryl Buchanan reported that this resolution pertains to the 2020 Census which was discussed at last month's meeting and noted that the census will be conducted on-line. Ms. Buchanan stated that the U.S. Census Bureau is required by the U.S. Constitution to conduct a complete count of the population and this resolution states that the Town of Banner Elk is committed to ensuring every resident is counted. She reported that she received from the Census Bureau a map and list of people that lived in Banner Elk that they had on file. She reviewed and corrected the list, adding new names and making corrections and in turn sent the revised list back. There was discussion about setting up computers in Town Hall and at The Book Exchange for citizens who may not have access to the internet. Council Member VonCanon motioned to adopt the resolution. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Historic Banner Elk School Project Updates

Council Member Tufts reported that Art on the Greene on Labor Day weekend was a great success; good weather, good crowds, happy vendors, a lot of money for the Town. He noted that they received generous donations from the vendors for the Silent Auction coming up. Council Member Tufts questioned Council about the school being closed on Sunday and asked that it be a topic for conversation at next year's events. He noted that the public was concerned. There was discussion regarding the use of the school and the use of the bathrooms within the school. Attorney Eggers stated that fire code doesn't regulate the number of bathrooms and the building code is in effect

when the building was constructed. He noted that the Historic Banner Elk School was built in 1939. From a state regulation he didn't believe there would be any building code applicable that would require the number of bathrooms from a practical use standpoint. There was further discussion about the renovation of the bathrooms and the number of people using the bathrooms.

Council Member Bolick reported that the new 501(c) is very active in going after grants to do renovations at the school. The bathrooms, unfortunately, are not high on the list in getting grants. He stated that they installed carpet in the art gallery. Council Member Bolick noted that they are close to receiving the funds for work on the front doors and the back doors will be replaced. He reported that the French drain system was checked and worked well.

Mr. Owen presented a slide show of the landscaping at the Historic Banner Elk School; before and after pictures all around the school. Mr. Owen thanked Council Member Bolick and his fund-raising efforts for getting this project completed and Sonya Garland with Hawk Mountain for the great landscaping job.

Manager's Update

Mr. Owen reported that included in Council Member's packets are the Financial Summary Report for 2 months ending 8/30/19, police report, planning, zoning and tax collection reports. He stated that if there were any questions regarding these reports to let him or the staff know. Mr. Owen noted that also included in their packets is a copy of the Planning Board Meeting Minutes of September 3, 2019 and the High Country ABC Meeting Minutes of July 18, 2019. In addition, there is a Proclamation which the Mayor signed for Constitution Week, September 17 – 23, 2019.

Mr. Owen reported that a couple months ago, Council approved the Porsche Club using the parking lot at the Historic Banner Elk School. It will be held this weekend.

Mr. Owen stated that on Thursday, September 19th at 5:00 the Family Picnic will be held. He noted that it was held last year in conjunction with Lees-McRae and this year it will be a kick-off to Family Weekend at Lees-McRae. At the Family Picnic, there will be inflatables, two bands will be performing and there will be food vendors. Mr. Owen directed Council's attention to the site map showing the layout for the picnic (location of the stage, food and drink vendors, inflatables, Feeding Avery Families, etc.).

Mr. Owen reported that on Saturday, September 21st at 2:00 until 5:00 Kids' Fest will be held, also in conjunction with Family Weekend at Lees-McRae. Mt. Calvary Church will be holding this event at the Historic Banner Elk School. There will be games, food and inflatables on the school grounds.

There was discussion about the event Movie Under the Stars.

There being no further business, Mayor Lyerly asked for a motion to adjourn September's meeting.

At 7:01p.m. Council Member VonCanon motioned to adjourn the September 2019 Town Council meeting. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Adjourn

The Banner Elk Town Council meeting adjourned at 7:01 p.m.

Mayor Brenda Lyerly

Attested

Approved: October 14, 2019