

BANNER ELK TOWN COUNCIL

**April 14, 2014
MINUTES**

The Banner Elk Town Council met Monday, April 14, at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

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

Others present: Rebecca Bolick, Donna Dicks, Penny VonCanon, Marilis Smyth, Clayton Harpold, Tom McMurray, Jamie Shell, Ron Johnson and other interested parties.

Call Meeting to Order

At 6:00 p.m., Mayor Brenda Lyerly called the regular monthly meeting for April 2014 to order.

Pledge of Allegiance

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

Invocation

Council member VonCanon opened the meeting with prayer.

Public Hearing – Water and Sewer Rate Structure Change and Increase Proposal

Mayor Lyerly opened the public hearing at 6:05 p.m. Mr. Owen reported that council has discussed this item for the past three months in depth. He noted that for those in attendance he will report on the highlights from their discussions prior to receiving any questions from the public.

Why is the town considering this?

Mr. Owen reported that the town is considering this because of the need to increase its income for operations. The town has experienced a loss of revenue due to the decline of development fees, impact fees and availability fees. He noted that the town's rate structure was based on these development fees coming in for water and sewer. In addition, the user patterns has also changed in town due to the decrease in commercial and restaurant use. The state's requirements has changed also in what the town needs to have in its fund balance and reserve balance.

Mr. Owen reported that the town's goal was to set a rate structure that will insure the sustainability of the town's water and sewer operations and allow for uncomplicated rate increases in the future.

Outcome

Through extensive review of our current utility customers, three major areas of inconsistency were found:

1. The need for customers connected to the system to share more in the cost of the system.
2. Large meter accounts do not accurately represent our large system users.
3. The town has a number of accounts that represent multiple users but are being considered single accounts.

The following are the key points to the proposed structure.

Base Rate

Base rate does not change by meter size.

All users will pay the same base charge for service provided. The services the town will provide are:

- In-Town Water
- Out-of-Town Water
- In-Town Sewer
- Out-of-Town Sewer

Minimum Usage will be 2,000 gallons for water and sewer.

Single meter accounts with multiple users will be billed the base charge times the number of users

Closing

This proposal will restructure the town's rate structure and rate tables to be more equitable for our users and set the stage for future rate changes that affect all users in usages equally.

Mayor Lyerly asked if there was anyone in the audience who would like to comment on this proposal or any council member. Mr. Owen stated that during his outreach to major utility users, he received much feedback concerning the rate restructure. He noted that he received a letter from one citizen which was emailed to council members. He stated that during the past month he contacted several users that would be most affected by this. He indicated to them that there will be a public hearing and suggested that they send him any written comments or questions they may have regarding the rate increase. Mayor Lyerly stated that council would like to hear the other comments. Mr. Owen didn't list any name associated with the comments. He noted that he solicited the comments. He contacted individual users and sent out letters with

the proposed rates along with a spread sheet showing them how they would be affected based on last year's bill. Mr. Owen went over several of the comments.

- Apartments that include utilities in with the rents: lucky to get rent but hard to add additional cost, already paying too much.
- Restaurants: already paying too much, all operational costs are going up, will have to raise prices, driving them out of business, wished we had done it when the economy was good, wished it could be done in smaller increments.
- Apartments/Condos/Retail: they will pass the cost along to the tenants/owners/customers, could be worse, understand the business necessity, thanked me for calling
- Residential: do all needed increase at once (if we need more do it now)

Mayor Lyerly asked if there were any comments. Mr. Clayton Harpold stated that he represented Ski Country Condominiums. He noted that he was concerned that his rates will be jumping approximately \$15 a month per unit. All of the sewer rates are built into the POA fees. This increase will change our yearly rate from \$20,000 to over \$31,000. Mr. Harpold noted that the complex is generally not occupied more than 30% at any time. He stated that he wants it to be on record that he is very concerned about the increase.

There being no other comments, Mayor Lyerly closed the public hearing at 6:13 p.m.

Approval of the Minutes

Mayor Lyerly asked council for a motion to approve the March 2014 minutes. Council member VonCanon motioned to approve the minutes as written. Council member Dunn seconded the motion. The March 2014 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 stated agenda. Council member Tufts motioned to approve the agenda as stated. Council member Lecka seconded. All were in favor. No one opposed.

Public Comments

There were no public comments.

Water and Sewer Rate Increase Proposal

Mayor Lyerly asked if there were any further comments or questions. There being no comments, Mayor Lyerly asked for a motion. Council member VonCanon motioned to accept the rate increase proposal as presented. Council member Bolick seconded the motion. All were in favor. No one opposed.

Proposed Zoning Ordinance Amendments

Cheryl Buchanan reported that the planning board has been working on bringing the Zoning Ordinance up to date. In the Table of Contents, Section 1130 Preserve America Commission was added. She noted that the board discussed that the cell tower conditional use permit was not covered in the town's ordinance. It was treated as a separate stand-alone ordinance. This was added under Conditional Use Standards so it will be covered in our zoning ordinance as well. Ms. Buchanan noted there were certain items referenced in the town's ordinance that were not defined. Under Section 200 Definitions, she noted the highlighted items that were added. She did talk to Mr. Eggers about the proposed changes and he gave his recommendations. Ms. Buchanan referenced Table 308 Uses by District. Telecommunications Structures was added. She noted that a change was made to Table 308-3 Steep Slope Maximum Density Requirement. She did some research regarding state requirements and changes were made to C-1 and C-1P to conform to the state's requirements with the exception for properties dedicated to civil services. These will remain at 90%. Ms. Buchanan referenced Section 310 Land Disturbing Activities Involving Steep Slopes. There has been confusion regarding the calculation of the average of steep slope and the formula. A paragraph was added to clarify it better. Ms. Buchanan referenced Section 313 Stormwater Management. She consulted with Derek Goddard with Blue Ridge Environment and Mr. Eggers. This section is now more detailed and up to state standards. Ms. Buchanan reported further changes to this ordinance under Article IV Parking and Loading. Changes, additions, clarifications along with detailed illustrations were made to sections that included parking, streetscape, lighting, building designs (scale and proportion of buildings, planned residential and commercial developments, roof pitch, etc.). Mayor Lyerly thanked Ms. Buchanan, Penny VonCanon and the entire planning board for all of their work in updating the town's zoning ordinance focusing on such detailed explanation. Council members agreed. Mayor Lyerly asked if there was a motion to call for a public hearing. Council member Tufts motioned to call for a public hearing at May's meeting. Council member Lecka seconded the motion. All were in favor. No one opposed.

TDA Board Member Appointment

Mayor Lyerly reported that town council has a vacancy to fill on the TDA (Tourism Development Authority) Board. This appointee will complete Mr. Chandler's term on the board. She noted that Tom McMurray has graciously accepted the position if council approves. Council member VonCanon motioned to approve Tom McMurray as the new TDA board member. Council member Tufts seconded the motion. All were in favor. No one opposed.

Mayor Lyerly stated that Mike Dunn has been the Vice Chairman on the TDA Board and is a long standing member. Council needs to vote Mike Dunn as the new Chairman. Council member Bolick motioned to approve Mike Dunn as the new Chairman for the TDA Board. Council member Lecka seconded. All were in favor. No one opposed.

Board Member Vacancies

Cheryl Buchanan reported to council that there are vacancies on the Planning Board and the Board of Adjustment. She noted that she recently received a letter of resignation from Mr. Bill Wilson who is a full time, in-town member on the Board of Adjustment. Ms. Buchanan has asked a gentleman she is familiar with if he would be interested in a position on one of the

boards. He is reading the descriptions of both boards and was given an application. She noted that he would make a good in-town member on the Board of Adjustment. The board also needs an in-town alternate. In regards to the Planning Board, Ms. Buchanan reported that one in-town member and two ETJ members are needed. Per the Town Code, the process calls for a recommendation by the Town Manager, an application by the interested party and approval by the Town Council. Ms. Buchanan wanted council members to be aware of the vacancies. Mayor Lyerly noted that the town needs more participation from its citizens.

Greenway Easement Acceptance

Rick Owen noted to council that the town has been working at getting greenway easements for locations that currently have a trail on it and for future trails. Michael and Susan Brown have purchased a piece of property which has a section of the town's greenway crossing it. Mr. Owen noted that the property is located beside the Consignment Cottage. They have asked the town for an easement and the town also wants an easement for the use of this property. Mr. Owen stated that the Browns have already signed the Greenway and Conservation Easement which was needed for their closing and which was prepared by Mr. Eggers. Mr. Owen would like council to approve the easement for the Mayor's signature. Mr. Eggers noted that this document will need the town's signature, the signature notarized and then recorded at the Avery County Register of Deeds. Council member Lecka motioned to approve the easement. Council member Dunn seconded the motion. All were in favor. No one opposed.

Request to Accept Socio-economic Data

Mr. Owen reported to council that the High Country Council of Governments is working with the NCDOT in preparing an Avery County Comprehensive Transportation Plan. One of the steps they need to do is to have all the towns and the county approve their methodology in determining the rate of population growth in the county. The committee has sent the town a memo regarding population and employment along with a population projection page which tell us that this committee is assuming a population growth of .7% over the next 30 years. This data justifies how they come up with this .7%. Council member VonCanon motioned to approve the committee's methodology and the growth rate they are projecting. Council member Bolick seconded the motion. All were in favor. No one opposed.

Goals Review

Mr. Owen noted that Town Council held a Planning/Goals Workshop on April 5th to set short and long term goals for 2014/2015. Mr. Owen handed out recap of goals discussed at this meeting which lists continuing projects (noted in green), one year projects (noted in blue), three year projects (noted in orange) and three items that are still being reviewed or need to be revisited. Mr. Owen asked council to review the list to make sure we are all on the same page. He noted that these items can be discussed at a future meeting or at one of the budget workshops.

Dogwood Road Stormwater Project Financing / Bridge Repair Project Financing

Steve Smith addressed council. Mr. Smith reported that he will address both resolutions because it will be one loan with BB&T and the corrected interest rate is 2.28% (different than what is shown on the resolution in council member's packets). The financing term is for seven years and the total financed amount is \$201,200.00 (\$80,000 for the Bridge Repair Project and \$121,200 for the Dogwood Road Stormwater Project). Council member VonCanon motioned to approve the financing for these two projects at an interest rate of 2.28%. Council member Bolick seconded the motion. All were in favor. No one opposed.

Council member Bolick asked what the anticipated start date for the Dogwood Road project is. Mr. Owen reported May 1st. The reason for the delay is waiting to be sure an asphalt plant will be opened. The contractor has a 30-day completion time so they have a short window for everything to fall into place.

ABC Board Request for Alcohol Law Enforcement Officer

Mr. Owen reported that this issue was first presented at last month's council meeting. The ABC Board held a meeting in which he, Mayor Lyerly and Chief Clawson attended. The Board would like feedback from council as an owner of the store on how to proceed with providing inspections and enforcement of laws related to the operation of establishments that the ABC store sells to by the 15th of this month. Our police department doesn't want to inspect outside our town limits but would be happy to do inspections inside the town limits which would give our officers further training, would give them authority and allow them to have access to establishments in case there were issues that need to be addressed. Mr. Owen stated that we could contract with someone to provide inspections outside the town. Donna Dicks was recognized and reported that the "contract person" will receive a five hour training course offered by the State in which he will be certified and authorized to conduct inspections. She understands that inspections will be conducted twice a year and they will have a check list and procedures to follow. Discussions followed regarding why inspections are needed, what are the consequences if the inspections are not done, if violations are found who is responsible for pulling the license, hiring one person for Avery County, enforcement issues, etc. Mayor Lyerly asked Chief Clawson's opinion. He agreed with having his department conduct inspections within town limits only. He also reported that he and three other officers will receive training on the 28th provided by the ABC Board. A list was provided naming the mixed beverage establishment by each town (owner).

Council member VonCanon motioned to limit the Banner Elk Police Department to perform ABC inspections within the town's jurisdiction only. Council member Lecka seconded the motion. All were in favor. No one opposed.

Manager's Update

Mr. Owen reported that included in council member's packets were the financial report, police report, planning, zoning and tax collection report. Also included is a copy of the High Country ABC Board Meeting minutes for February 2014. Mr. Owen noted that if there were any questions regarding these reports to let him or staff know.

Mr. Owen reported that the High Country Municipal Association has a meeting on May 8, 2014.

Mr. Owen reported to council that the town received a Certificate of Occupancy on the park shelter. Electricity is on and water and sewer is hooked up. There is some grading that needs to be done before we can begin landscaping. He noted that there are some issues with the handicap rail which is being re-designed. The renovation to the pavilion is going well. The concrete slab has been poured inside the building. A portion of the building was painted. The renovation is progressing well.

Council member VonCanon asked about the bridge repair. Mr. Owen reported that the contractor was hoping to have all work completed in 4 weeks (weather dependent). There are three bridges that are in his contract and he has a 60-day completion time. Their work involves sandblasting, priming and re-painting the steel structures underneath the three bridges. Mr. Owen noted that there were two other components related to bridge repair. One was repair work to the headwalls around the culvert at Crooked Creek and the other was to replace the decking at Dogwood. Shawneehaw and Balsam were okay.

Council member Tufts asked if the exercise equipment and climbing wall at the park extension will be completed this summer. Mr. Owen noted that the exercise equipment has been ordered and he will check on the climbing wall status. Our goal for completion is June 30th. Council member Tufts also asked about basketball goals. Mr. Owen stated that the town has access to two basketball goals at the old elementary school.

Mr. Owen reported that new sand has been placed in the volleyball court with the help of the Lees-McCrae volleyball team on the "Mountain Day of Service".

Mayor Lyerly asked what the concrete slab square is in the park. Mr. Owen noted that it will be a bird watching station.

Council member Bolick asked that when we place the basketball goals will they need to be lit. Mr. Owen stated that the town is under no obligation to light them (the town has a dawn to dusk policy).

At 7:16 p.m. council member Lecka motioned for council to proceed to closed session pursuant to NCGS 143-318.11. Council member Dunn seconded. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.

Council returned to open session at 7:57 p.m.

Other Business

Discussion was had about the trees that were cut down by Mountain Electric at the new nursing school.

There being no further business, at 8:00 p.m. council member Lecka motioned to adjourn the April 2013 town council meeting. Council member Tufts seconded the motion. All were in favor.

Adjourn

The town council meeting adjourned at 8:00 p.m.

Mayor Brenda Lyerly

Steven R. Smith
Finance Officer/Clerk

Approved: May 12, 2014