

# **BANNER ELK TOWN COUNCIL**

**April 13, 2015  
MINUTES**

The Banner Elk Town Council met Monday, April 13, 2015 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

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

## **Call Meeting to Order**

At 6:00 p.m. Mayor Brenda Lyerly called the regular monthly meeting for April 2015 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.

## **Approval of the Minutes**

Mayor Lyerly asked if there was a motion to approve the March 9, 2015 Town Council meeting minutes. Council Member Tufts motioned to approve the minutes as written. Council Member Bolick seconded the motion. All were in favor. No one opposed.

## **Approval of the Stated Agenda**

Mayor Lyerly asked if there was a motion to approve the April agenda. Council Member Dunn motioned to approve the agenda as written. Council Member Lecka seconded the motion. All were in favor. No one opposed.

## **Public Comments**

There were no public comments.

## **Sidewalk Easement**

Mr. Owen addressed Council. He stated that the Town has been talking with the VonCanon's regarding a proposed easement from the caboose down to the Mill Pond. He presented Council with renderings showing what the sidewalks would look like (the pavers plus a knee wall), a map indicating where the sidewalks would begin and end and a draft of the easement deed prepared by Mr. Eggers. Mr. Owen noted that there five parcels requiring easements, four of which are owned by Mr. & Mrs. William VonCanon. Mr. Owen stated that one of the concerns of William and Patricia VonCanon is granting the Town the easement, but the Town not following through with the construction of the sidewalk. They want the Town's commitment on the sidewalk. Mayor Lyerly addressed everyone stating that the Town does want and need the sidewalk along that area and noted that the Town has some funds available. Mr. Owen noted that from the

estimate that was done for this project about a year ago, the Town has about 1/3 of the money needed to complete the project, but the TDA has indicated their support for the sidewalk project. Patricia VonCanon asked what this project would cost. Mr. Owen reported that one estimate from Destination by Design (not a construction estimate, but a design estimate) was \$100,000 which includes the design, permitting, construction management and to have it built. Discussions continued regarding cross walks, DOT right of ways, VonCanon's property and the Town's flood ordinance. Mr. Eggers noted that Council's concern and intent is that there is enough room to put a sidewalk in outside of the road and room enough for pedestrians. He also noted that the easement can contain a clause stating that the easement would terminate if the sidewalk is not built within a certain period of time. If the sidewalk is built within the designated time period, it would become a permanent easement. Council Members agreed that the time frame to build the sidewalk will be determined at a future date based on financial constraints and realistic construction time established by the designers. Mayor Lyerly asked if this was satisfactory to the VonCanon's. They agreed. Council Members also agreed that the Town needed to put together a financial package before we attach a time frame.

### **Mayland Community College Lease**

Mayor Lyerly asked if Dr. Boyd would like to speak on behalf of Mayland. Dr. Boyd stated that he is in agreement with the lease and that he and Mr. Owen have had several discussions regarding it. Mayor Lyerly noted that the lease agreement was included in Council's packets. The term of the lease is for 3 years at \$1.00 per year. Mayor Lyerly asked Council Members if they had any questions regarding the lease. Council Member Bolick motioned to approve the Mayland Lease Agreement. Council Member Lecka seconded the motion. All were in favor. No one opposed.

### **Call for Public Hearing to Amend the Zoning Ordinance**

Cheryl Buchanan addressed Council. She reported that the Town has received a request to locate a tattoo parlor in Banner Elk and that currently the Town's ordinance does not address this subject or use. The request has already been presented to the Planning Board. Ms. Buchanan noted that the Planning Board recommends that Council call for a public hearing to add this as a permitted use in the C-2 zoning district, not a conditional use. The Town's usage table will have to be changed along with adding definitions to Section 200 of the Ordinance. Council Member Dunn asked the exact location for this parlor. Ms. Buchanan noted that it will be located in High Country Square. Mayor Lyerly asked if there were any questions. Council Member Tufts motioned to call for a public hearing at the next Council meeting. Council Member Dunn seconded the motion. All were in favor. No one opposed.

### **Call for Public Hearing – Rezoning**

Cheryl Buchanan reported that the applicant called her this afternoon and asked that their application be removed and therefore Council will not be addressing this agenda item.

### **Arbor Day Proclamation**

Cheryl Buchanan reported to Council that the Planning Board which is also the Tree Board met on April 6<sup>th</sup>. She noted that Banner Elk has been designated Tree City USA and one of the requirements of being a Tree City is an annual recognition of Arbor Day which is Friday, April 24<sup>th</sup>. Ms. Buchanan stated that Penny VonCanon researched the history of Arbor Day and found that it is often associated with educational programs for elementary schools. Ms. VonCanon contacted Banner Elk Elementary School and they are looking forward to celebrating

Arbor Day. The forestry ranger for Avery County, Joe Shoupe, will come to the school and make a presentation and address the students who will in turn take part in helping plant several trees around the school. Ms. Buchanan noted that further details are forthcoming regarding the time the activities will take place at the school. Mr. Owen stated that as a Tree City USA Council will need to pass an Arbor Day Proclamation proclaiming April 24<sup>th</sup> as Arbor Day. Council Member Tufts motioned to approve the Arbor Day Proclamation. Council Member Lecka seconded. All were in favor. No one opposed.

### **Budget Amendment**

Mr. Owen reported to Council that there are four funds that need budget amendments before the end of the year. He noted that in the General Fund there were increased expenditures for professional services and the Historic Banner Elk School. Mr. Owen stated that under the Sidewalk Fund the large figure is deceiving. A couple of months ago Council closed this fund. Since it was previously unclosed that money was rolling over every year. What we are doing is budgeting that money. No money has been spent. It was spent years ago and should have been closed out years ago. Mr. Owen stated this is a housekeeping issue. Mr. Owen reported that the General Fund Capital Reserve lists items that happened last year at the end of the budget cycle (i.e. the Part F Grant, the Dogwood Road project and the F-450 truck). Mr. Owen stated that the Water/Sewer Capital Reserve figure is for the Grandfather Home sewer line. Mr. Owen recommends Council approving these amendments. Council Member Lecka motioned to accept the four budget amendments as stated. Council Member Dunn seconded the motion. All were in favor. No one opposed.

### **Historic Banner Elk School Property Use Committee Update**

Mr. Owen noted that Tom McMurray would be arriving later, but those who also attended the meeting were JoAnn McMurray, Robert Tufts and himself. Council Member Tufts updated everyone on the discussions at that meeting. He noted that a rendering and a definite “direction” plan is forthcoming. He reported that what is definite is: the Woolly Worm Committee has committed \$50,000 toward building a permanent stage; the gymnasium will be used as public space, which becomes a top priority in getting the space refurbished for use as soon as possible; Mayland will be using the back portion of the building as previously discussed. Mr. Tufts stated that there is still an uncertainty as far as use for the rest of the building. He reported that Bob Mann and Joel Shipley will be working on a streetscape plan and the Kiwanis will hold its One Day Project on April 11<sup>th</sup> focusing on the grounds of the Historic Banner Elk School. A proposal for Council is being worked on in regards to funds being allocated towards the refurbishing of the gymnasium (i.e. paint supplies; HVAC, restrooms, etc.). Mr. Tufts stated that Art on the Green is growing; there are several applicants, brochures have been handed out to potential vendors and the event is listed on the web site *festival.com*. He reported that the Farmer’s Market will take place on Thursdays. The committee also discussed getting the kitchen cleaned up so that it could be used for caterers, etc. Mr. Owen thanked Council Member Tufts for the thorough report and stated that the April 11<sup>th</sup> cleanup went very well. There were many volunteers and a lot of work was done on that day. Mr. Owen also noted that he will be looking to Council for direction in regards to donations towards a landscape design at the elk area in front of the school and also towards seeking professional help in a land use plan for the entire area (lighting, sidewalks, storm drainage, electrical use, etc.). Mr. Owen stated that he has spoken with Bob Mann and Joel Shipley and they are interested in assisting with the work on a land use plan at the front area / stage area of the school. Mr. Owen is also looking into the possibility of connecting Culver Street and the street at the gymnasium, creating another block in

Town, tying the property with the Town. Their goal is to map out a basic drawing with what the Town has to work with then and add to it featured items such as parking, curb and gutter, sidewalks, the elk and stage. Mr. Owen is asking Council to approve spending up to \$2,000 for renderings, drafting and surveying work. This is the first step the Town needs to take in order to open up the door to possible donors. Mayor Lyerly agreed that people need visual images which show the possibilities and goals for the old school. Council Member Dunn motioned to approve spending \$2,000 for a rendering of the Historic Banner Elk School. Council Member Tufts seconded the motion. All were in favor. No one opposed.

### **Historic Banner Elk School, Fund Raising Committee Update**

Mr. Ted Silver stated that producing renderings will definitely be beneficial to the fund raising committee in promoting and publicizing the project. He reported that Belle, the new wishing well, is the beginning of spreading the word. It has been positioned at several businesses throughout the Town and Lees-McRae has agreed to have it located at their facility during the summer theater series of Oliver and at the forum. Mr. Silver noted that he is hopeful that during the summer concert series and other summer functions that Belle will attract more people to donate. \$50-\$60 has already been collected. Mr. Silver also noted that Lou Ann Morehouse and Carol Silver are the press/publicity persons for the fund raising committee. They have written articles that have been published in the Avery Journal and High Country Press about the fund raising for the old school. The articles asked for alumni, teachers and staff of the Banner Elk School over the years to come forth with personal stories of their experiences and memories of their time spent at the school so we can raise more human interest in the project. Dr. Burleson, superintendent of Avery County Schools, has been very cooperative and Michael Hardy, the local historian, has also placed our cause on his Facebook page and is gathering more historical information about the school for us. Mr. Silver stated that the committee wants more personal stories which will help raise everyone's interest. Mayor Lyerly thanked Mr. Silver and the committee.

### **ABC Board Appointment**

Mayor Lyerly reported that the Town's ABC Board member's term is up at the end of June. Donna Dicks is willing to serve another term which is 3 years. She noted that Sara Brewer would also like her to serve another term. Council Member Bolick motioned to reappoint Donna Dicks to serve another 3-year term on the ABC Board waiving the second reading. Council Member Dunn seconded the motion. All were in favor. No one opposed.

### **Audit Services**

Mr. Owen reported that our current auditors, Martin Starnes, has decided that it was not in their business plan to continue offering services for the Town of Banner Elk at the rate in which they were providing the services. Steve Smith put out a Request for Proposals for auditing services and the deadline was last week. Mr. Owen stated that the Town received six responses. Mr. Owen stated that their costs ranged from \$11,000 to \$23,000. After a review Mr. Owen noted that he recommends to Council that the Town choose Misty Watson, an auditor from Boone. She currently works for Watauga County and Beech Mountain, two major government entities that she is providing services for. Mr. Owen reported that her cost for services is \$11,000 which includes the audit for the TDA. The Town has been paying Martin Starnes \$13,500. Council Member Lecka motioned to approve entering into a contract with Misty Watson for auditing services. Council Member Bolick seconded the motion. All were in favor. No one opposed.

### **Special Event Permit**

Mayor Lyerly noted that included in Council's packets is a copy of the Special Event Permit and asked Mr. Owen if he wanted to expound upon this. Mr. Owen reported that Council has discussed this issue at great length. Mr. Eggers prepared a draft for Council to review and everyone is content with its contents. Mr. Owen stated that he feels we are headed in the right direction and would ask Council to approve the permit. He noted that on the last page is a Fee Schedule Amendment which adds a fee of \$50.00 to the permit. Two motions would be required. Council Member Dunn stated that he had two comments. The word *alcohol* which is a very broad term and the phrase *malt beverages or fortified wine*. He asked if the Town is excluding spirits. Mr. Owen stated that spirits are not included. It only permits wine and beer, the way the ordinance is written. Mr. Owen noted that he will change the term alcohol. Council Member Lecka motioned to approve the Special Event Permit with the changes to the wording of alcohol to wine and beer. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Council Member Bolick motioned to approve adding a \$50 fee to the permit application. Council Member Dunn seconded the motion. All were in favor. No one opposed.

### **New Signature Cards**

Mr. Owen reported that the Town needs to update the signature cards at Highlands Union Bank removing Steve Smith. He noted that currently Mayor Lyerly, Council Member Bolick, Council Member VonCanon, Steve Smith and he are listed at the bank. Council Member Lecka motioned to approve removing Steve Smith and leave the others as listed. Council Member Dunn seconded the motion. All were in favor. No one opposed.

### **Manager's Update**

Mr. Owen reported that included in Council Member's packet were the police report, planning, zoning and tax collection report. Also included are the April 2015 Planning Board Meeting Minutes and the February 2015 High Country ABC Board Meeting Minutes. Mr. Owen noted that if there were any questions regarding these reports to let him or staff know.

Mr. Owen reported that there is no financial report in Council's packet. He noted that Betsy Wilson will be helping the Town in the financial department on a part time basis (once a week) until a finance officer is hired. He stated that she will help him put together a financial closing statement for last month and once it is compiled he will forward a copy to Council Members.

Mr. Owen stated that the Police Department received its new vehicle.

Mr. Owen noted that another item relating to the Banner Elk School is that Elk River has offered the Town the opportunity to hold a golf tournament on Monday, September 21<sup>st</sup>. It would be an invitational, charity golf tournament for the sole purpose of raising money for the Historical Banner Elk School. The Town is working with Toni Littleton and Oliver Peacock with Elk River Club to come up with the best plan for how the tournament will be run, making it unique from other tournaments. Council Member Bolick has offered to help with organizing the event. Mr. Owen noted that there is a potential that this could become an annual event to raise money for this project. They are also working on an idea of getting other golf clubs involved. Mr. Owen wants Council's input and to let him know of any ideas, contact persons, etc. Council Member Bolick suggested starting up a committee to help organize the event with regards to a

budget, silent auction, sponsorships, food and beverages, etc. Mayor Lyerly, Council Member Tufts and Council Member Lecka volunteered to be on the committee. There was a discussion on how this event should not interfere with the Police Department's golf tournament.

Mr. Owen reported that at the High Country Municipal Association meeting, there was a report regarding Senate Bill 369 Sales Tax Fairness Act which is a redistribution of sales tax in the state of North Carolina. He noted that this bill concerns several towns throughout the state. If passed, it would greatly change the way local sales tax is distributed. It would be calculated on a per capita basis. Mr. Owen stated that it would mean that over a three year period after the transition period, the Town of Banner Elk would be losing approximately \$100,000 a year in sales tax revenue which is 1/3 of what we collect at present. At the High Country Municipal Association meeting they voted to pass a resolution opposing the bill to get the word out of their strong opposition. Mr. Owen stated that Beech Mountain and Seven Devils has done the same. Mr. Owen presented Council a resolution which was prepared for the Town of Banner Elk opposing Senate Bill 369 as it is on its face value. He noted that he feels that this bill is such a bad idea that nothing will come out of it, but feels the Town does need to present its opposition. Council Member Lecka motioned to approve the resolution opposing Senate Bill 369. Council Member Tufts seconded the motion. All were in favor. No one opposed.

At 7:35 p.m. Council Member Dunn made a motion for Council to proceed to closed session pursuant to NCGS 143-318.11. Council Member Lecka seconded. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.

Council returned to open session at 8:06 p.m.

### **Other Business**

Mayor Lyerly noted that there is a Resolution Agreement that needs Council's vote. Mr. Eggers noted that this resolution is regarding an online travel company's occupancy tax issue. Council Member Tufts motioned to accept the resolution. Council Member Dunn seconded the motion. All were in favor. No one opposed. Mr. Eggers stated that once he receives the complete executed copy, he will forward it to Mr. Owen.

Council Member Tufts asked if there would be someone from Council going to the installation of the new chancellor at Appalachian State University. Mayor Lyerly stated that she would attend and represent the Town of Banner Elk.

Council Member Dunn stated that July is fast approaching and the first payment on the Historic Banner Elk School will be due. He proposed to Council and Mr. Eggers a "prepared meals tax", a potential source of continued revenue for acquiring property (i.e. the school). Mr. Eggers stated that if we were to have such a tax, it would require enabling a statute from the general assembly to do that and not sure if it could be by a local bill or whether by a general act applicable state-wide. The deadline for local bills is fast approaching. There a several legal and government issues involved. Mr. Owen noted he will research this.

Mayor Lyerly asked when the budget meetings will be held this year. Mr. Owen stated that he was looking at May and June. After discussion and going over scheduled calendar events, Council decided the first budget workshop will be held on Monday, May 25 at 4:00 - 6:00 p.m. and the second workshop will be held on Monday, June 22 at 6:00.

There being no further business, at 8:30 p.m. Council Member Tufts motioned to adjourn the April 2015 Town Council meeting. Council Member Lecka seconded the motion. All were in favor.

**Adjourn**

The Town Council meeting adjourned at 8:30 p.m.

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Mayor Brenda Lyerly

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Attested

Approved: May 11, 2015