

# BANNER ELK TOWN COUNCIL

**August 8, 2016  
MINUTES**

The Banner Elk Town Council met Monday, August 8, 2016 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

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

## **Call Meeting to Order**

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting of August 2016 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 July 11, 2016 Town Council Minutes. Council Member Bolick motioned to approve the July Town Council Minutes as written. Council Member Dunn seconded the motion. All were in favor. No one opposed.

## **Approval of the Stated Agenda**

Mayor Lyerly asked for a motion to approve the August 2016 agenda. Council Member Dunn motioned to approve the August 2016 agenda as stated. Council Member Tufts seconded the motion. All were in favor. No one opposed.

## **Public Comments**

Mayor Lyerly recognized Jerry Ann Floyd. Ms. Floyd stated that Pickle Ball is now being played in Newland and would like the sport to come to Banner Elk as well, using the gym in the Historic Banner Elk School. She stated that she would like to schedule a time for this event. Mayor Lyerly suggested that she and others interested should contact the Town Manager, Rick Owen. Mayor Lyerly thanked Jerry Ann Floyd for coming and her interest in the Town.

Mayor Lyerly called upon Cheryl Richardson. Ms. Richardson stated that she lives at 920 Old Turnpike Road. She noted that she would like to speak in regards to Waterfront Group's development they are proposing to build called Valley View between Highway 194 and Old Turnpike Road. Ms. Richardson stated that her concern was with the site plan showing the northern boundary right next to Old Turnpike Road. She is asking that the developer plant a landscape buffer at Old Turnpike Road and is asking for the support of Town Council. Mayor Lyerly thanked Ms. Richardson and stated that the Planning Board will take up her concern.

Mayor Lyerly called upon Melynda Pepple with the Avery County Chamber of Commerce. Ms. Pepple stated that the Chamber wrote a letter to the Town Council requesting that Council continue to support the Avery County Chamber of Commerce Fine Art & Master Crafts Festivals in 2017 which are typically held on the third weekend in July and August. She noted that these festivals continue to grow in vendor size and in the number of festival guests who attend which in turn promotes tourism and commerce to the Town of Banner Elk. Ms. Pepple noted that the Avery County Chamber of Commerce looks forward to working with the Town in 2017 and thanked Council for their consideration. Mayor Lyerly stated that Council will discuss and advise in a timely manner.

### **Subdivision Plat Approval for Valley View at Elk River**

Cheryl Buchanan reported to Council that included in their packets was the subdivision plat, a letter from Land Resource Management and a copy of an email from Tommy Bureson (Avery County Inspections Department) regarding this development. She noted that the developer has met the Town's ordinances as required for a subdivision. Ms. Buchanan stated that at the request of the Planning Board, they also added an emergency vehicle turnaround between lots 1 and 2 on the plat and also included on the plat the well sites (which includes a proposed well). Ms. Buchanan noted that in regards to Cheryl Richardson's request earlier, there is nothing in the Town's zoning ordinances that requires a developer to plant a buffer. Mayor Lyerly asked if there were any questions for Cheryl Buchanan or Stephen Cuff. Council Member VonCanon motioned to approve the subdivision plat for Valley View. Council Member Bolick seconded the motion. Mayor Lyerly asked if there was any further discussion. Council Member Dunn asked in regards to the concerned citizens if there was any interest on the part of the developer to create a type of buffer. Mr. Stephen Cuff noted that when we get to the point of construction and staking out the houses, we will see if there is a need for a buffer and if it will benefit both us and the adjacent homeowners. We want to first see how everything comes together. Mr. Cuff noted that all of their properties are maintained and controlled by restrictions/covenants. He stated that they are in the process developing the site, setting up an amenities package and setting up a homeowners' association. Mayor Lyerly thanked Mr. Cuff and asked if there were further questions. All were in favor of the motion. No one opposed.

### **Park Use Ordinance**

Mr. Owen reported that this ordinance will enable to Town to impose the rules that we already have for the park. He noted that the Town currently has policies regarding the park and the only item that was passed by a motion by Council were the hours of operation. Mr. Owen stated that staff proposes ordinance, Chapter 96: Park Rules and Regulations which defines and lists the acts that are prohibited in the park. This will give the Town more enforcement power. He stated that Attorney Eggers has reviewed the ordinance. Council Member Bolick questioned item number 4 regarding motorized vehicles. He felt it needed more clarification. Attorney Eggers noted that to make it more clear it could include the phrase "*other than authorized vehicles*". Council Member Tufts questioned item number 15 referencing skateboards. He noted that there are also waveboards and mountain boards and thought it too might need clarification. Attorney Eggers stated that a skateboard can generally be defined as a board with four small wheels in which you stand on and ride. He noted that all can come under the definition of skateboard, but it can be appropriate to have it read "*riding a skateboard, long board or similar device*". Council Member Dunn asked if there was a contradiction between item 14, also referring to other

wheeled devices, and item 15. Attorney Eggers stated that item 14 refers to “failing to yield to pedestrians.” There were discussions regarding wheeled devices (unicycle, scooters, etc.) and how they related to the two items. Council Member VonCanon questioned item 16 and smoking. He asked if it should include e-cigarettes. Attorney Eggers stated that item 16 can state “*smoking including electronic cigarettes*”. Council Member VonCanon also noted that perhaps someone should monitor the park to ensure that these 16 items will be observed. Mr. Owen noted that staff are aware of any misuses and that also people using the park typically report to staff of any wrong doings. However, Mr. Owen noted, that staff will stay up with it and the ordinance will be posted in the kiosks around the park. Council Member VonCanon motioned to adopt ordinance Chapter 96 Rules and Regulations Governing the Use of Town Parks as amended. Council Member Dunn seconded the motion. All were in favor. No one opposed.

### **Historic Banner Elk School Project Updates**

Mr. Owen reported that the Historic Registry is back on track. Stuart Gray hopes to have it on the agenda for January and feels positive about the process.

Mr. Owen noted that several activities have taken place at the school over the past three weekends: Avery County Chamber’s arts and crafts festival, Pet Fest and the Community Yard Sale which is helping us meet one of our goals which was to have a lot of activity held on the school property at the center of Town.

Mr. Owen stated that the elk area is also moving along. He noted that the weather has slowed the process, but it is looking good.

Mr. Owen reported that the Town has received an offer of a matching grant of up to \$25,000 and is working on ways to get the word out to encourage people to give. One idea was to put an insert in the Town’s August water bill, but would like the approval of Council before doing so. Council Members all agreed. Council Member Tufts suggested it be placed on the Town’s web site as well.

Donna Dicks reported that there are now more bookcases in the Book Exchange which have been filled. All the boxes of books that were stored in the old principal’s office and secretary’s office are now on shelves. Ms. Dicks also noted that this Saturday afternoon Bob Inman, a former news anchor in Charlotte who retired and became an author to several books, will be coming to visit the Book Exchange and do an author talk. Ms. Dicks also reported that due to the increase in volunteers, the Book Exchange hours have expanded during the summer months. In September she stated that Becky Alghrary-McRee will come to visit the Book Exchange to talk about her new book.

Council Member Bolick reported that the letter discussed at last month’s meeting did go out. The letter summarized Mayland Community College’s contribution to the school, the renovations being done in the gym, the Second Saturday Program, the \$25,000 matching grant and Team of 83. He noted that \$4,500 has been received, but we still need to work on meeting our goal.

Council Member Bolick reported on the golf tournament. He stated that currently there are 20 tentative teams that have signed up. He noted that we were able to secure our shirt sponsorship,

but still need a hat sponsor, golf ball sponsor, 30 more hole sponsors, 4<sup>th</sup> place sponsor and contest sponsors.

**Budget Amendment – Stormwater Project**

Mr. Owen reported that Council approved moving forward with the stormwater project. He noted that the Town has a \$95,000 matching grant which requires the Town to participate in the cost. This was not accounted for in the budget. Mr. Owen is requesting Council to approve the budget amendment to account for this expense. Council Member Tufts motioned to approve the \$55,000 budget amendment. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

**Budget Amendment – Sewer Line Maintenance**

Mr. Owen stated that at last month's meeting, Council agreed to a contract to have approximately 20,000 feet of sewer line cleaned. He noted that the contractor is scheduled to begin the work on August 29<sup>th</sup>. Mr. Owen is requesting Council to entertain a motion to approve the budget amendment for \$60,000 that would account for this expense. Council Member Bolick motioned to approve the budget amendment. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Council Member Bolick questioned the stormwater issue. He asked if there would be a possibility to move the basketball court to the paved area. Mr. Owen stated that he is hoping that once the stormwater project is completed it will be quickly turned over into a parking lot. He noted that the parking lot will theoretically / conceptually have a small loading area at one end which could hold a basketball goal. But we will look at this again long term based on the site plan.

**Tax Collector Report for 2015 Tax Year**

Cheryl Buchanan reported that the Town billed \$1,084,444.92 and collected \$1,061,216.66; a collection rate of 98%. She noted that the total outstanding for fiscal year 2015 was \$23,228.26. Ms. Buchanan went over the list of underpayments and overpayments which is required of the Town by state statutes and the resolutions. Mayor Lyerly noted that three motions will be required.

Council Member VonCanon motioned to approve the Annual Settlement of Tax Collector, the Resolution Approving the Tax Collector's Annual Settlement for Fiscal Year 2015-2016 and Prior Years, Small Overpayment of Taxes Received and Accounts Receivable Real and Personal Property. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Council Member Dunn motioned to approve the 2016 Charge to the Banner Elk Tax Collector. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Council Member Tufts motioned to approve the Resolution Directing the Tax Collector not to Collect Minimal Taxes for Tax Year 2016. 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 are the police report, planning, zoning, tax collection report and the financial report for 12 months ending 6/30/16. Also

attached is a draft copy of the August 2016 Planning Board Meeting Minutes and June 2016 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 stated that included in Council's packet was a memo from Chief Clawson to Council Members regarding a "ride-a-long" offer. Chief Clawson is inviting Council to spend time with the Town's police officers riding in their cars while they patrol the Town. It would give Council a first-hand experience of issues the department deals with.

Mr. Owen reported that the High Country Council of Governments' (COG) dinner will be held on Friday, September 9<sup>th</sup> at 6:00 p.m. August 26<sup>th</sup> is the RSVP date.

Mr. Owen noted that Highlands Union Bank has invited Council Members to a reception which will be held on August 23<sup>rd</sup> at the Mast Farm Inn at 5:00 until 7:00 p.m. August 19<sup>th</sup> is the RSVP date.

Mr. Owen reported on the Corner Project. He stated that the Town is working on conceptual drawings with the donor to come up with final plans for that area.

Mr. Owen stated that with regards to the sidewalk project at the Mill Pond, the Town met with DOT regarding additional information they needed and questions on additional permitting for a small retaining wall at a portion of the sidewalk.

Mr. Owen reported on the flooding that occurred in Town a couple of weeks ago. There was wash out on the road at Old Turnpike East. The Town is seeking bids for repair work. He noted that he will be asking Council for a budget amendment relating to this repair work. Mr. Owen reported that a bridge in the park was repaired because of structural issues due to the stream's high water.

Mr. Owen stated that the Town's waste water/sewer collection system was inspected and it went very well. They were pleased on its operation and were pleased with the Town's decision to hire a company to clean and video a portion of the system.

Mr. Owen noted that a wedding will be held in the park this coming weekend. He stated that it will be a large event; 450 people have been invited.

Mr. Owen discussed with Council the possibility of bringing pickle ball into Town. He noted that the gym at the Historic Banner Elk School would be a good location and use for this sport. It is a low impact activity. Mr. Owen stated it appears this event will become community driven. Mr. Owen familiarized Council with the game of pickle ball (size of court, rackets, type of balls used, etc.) and the cost of the equipment (approximately \$250). He doesn't think it would be a bad investment for the Town. There were discussions among Council Members and Mr. Owen regarding the use of the gym, set hours to play, storage of equipment, winter time use, etc. Council Members agreed that this sport would be a good community use of the gym. Mr. Owen noted that he will do more research and follow up with Council.

At 7:10 p.m. Council Member Tufts made a motion 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 7:18 p.m.

### **Other Business**

Mayor Lyerly opened discussion regarding the letter the Town received from the Avery County Chamber of Commerce regarding their 2017 request to use the school property to hold two arts and crafts festivals; one in July and one in August. There were discussions among Council Members regarding the number of art shows held by Avery Chamber and the Town, the vendor market, the operation of the Town's shows and the money they raise for the school, the rate the Town charges Avery Chamber, the relationship between the Town of Banner Elk and Avery Chamber, economic benefits to the Town, etc. Council Member Bolick made a motion to give the Avery Chamber of Commerce what they are requesting from the Town; a show in July and a show in August. There being no second to the motion, the motion failed. Council Member VonCanon motioned to table Avery County Chamber of Commerce's request till next month. Council Member Tufts seconded the motion. Council Members Dunn, Tufts and VonCanon were in favor. Council Member Bolick opposed. The motion passed.

There being no further business, at 8:04 p.m. Council Member Tufts motioned to adjourn the August 2016 Town Council meeting. Council Member Dunn seconded the motion. All were in favor. No one opposed.

### **Adjourn**

The Town Council meeting adjourned at 8:04 p.m.

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Mayor Brenda Lyerly

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Attested

Approved: September 6, 2016