

# **BANNER ELK TOWN COUNCIL**

**August 13, 2018**

## **MINUTES**

The Banner Elk Town Council met Monday, August 13, 2018 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

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

### **Call Meeting to Order**

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting of August 2018 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.

### **Approval of the Minutes**

Mayor Lyerly asked if there was a motion to approve or amend the July 2018 Town Council Minutes. Council Member Tufts 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 Stated Agenda**

Mayor Lyerly called for a motion to approve the agenda set before Council. Council Member Lecka motioned to approve the stated agenda as written. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

### **Public Comments**

There were no public comments.

### **2017 Tax Year Settlement Summary**

Cheryl Buchanan reported to Council that for the 2017 tax year, the Town billed a total of \$1,169,488.01 and collected \$1,159,635.32 giving the Town a 99.2% tax collection rate. She noted that she also included the prior year totals. Ms. Buchanan stated that included in Council's packet is a resolution which approves the tax collector's annual settlement. Council Member Bolick motioned to approve the Resolution Approving the Tax Collector's Annual Settlement for Fiscal Year 2017-2018 and Prior Years. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Ms. Buchanan reported on the underpayments and overpayments. She noted that three of the items, which are large sums, were prepayments for the 2018 taxes. Council Member Lecka

motioned to approve the 2018 Charge to the Banner Elk Tax Collector. Council Member Bolick seconded the motion. There was a question and discussion on the underpayments and foreclosure verses lien. Attorney Eggers noted that personal property taxes are a debt that is owed. Whereas, real property taxes owed are an automatic lien on the property. Mayor Lyerly noted that there was a motion and a second. She asked if all were in favor. All were in favor. No one opposed.

Ms. Buchanan presented Council with a resolution not to collect minimal taxes (that are \$5.00 or less) which is authorized by the NC General Statute. Council Member Tufts motioned to approve the Resolution Directing Tax Collector Not to Collect Minimal Taxes for Tax Year 2018. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Council Member Bolick recognized and thanked Cheryl Buchanan for the significant amount of work involved with the collection and reporting on the Town's taxes.

### **Tax Release, Perry**

Cheryl Buchanan reported that there was a tax bill for a parcel that is not in the town limits. The property belongs to Debbie Perry and the amount of the release is \$188.65. Council Member Tufts motioned to approve the tax release. Council Member Lecka seconded. All were in favor. No one opposed.

### **Tax Release, Whorley**

Cheryl Buchanan asked Council to release \$91.47, which are late fees on a tax bill for a parcel belonging to Anna Worley. Council Member VonCanon motioned to approve the tax release. Council Member Dunn seconded the motion. All were in favor. No one opposed.

### **Discussion – Towing and Booting Ordinance**

Mr. Owen reported on an incident in which a car was towed within Town limits by a private business which hired a private towing company to remove a car from Town property. The after effect brought light to this matter that other towing issues have developed within the Town (i.e. immobilization devices are being used in parking lots to prevent illegal parking) and that there is a potential for further issues developing related to towing. Mr. Owen noted that he has expressed his concerns, frustrations, shared opinions and possible options with Chief Hodges and Attorney Eggers. He stated that Attorney Eggers drafted an ordinance on towing and booting which establishes definitions and rules regarding parking, towing practices, etc. Mr. Owen noted that before being adopted much discussion will be needed since it will ultimately affect businesses in Town and the public. Chief Hodges reported the need for Council to be made aware of the parking/towing issues that exist in our Town. This ordinance would give a more permanent solution to the problem. Attorney Eggers addressed the subject of private property rights, private property parking lot owners and visitors to the Town who are unfamiliar with where to park. The concern that came up that led to this was whether someone should be towed without prior notice and setting standards on how much a towing company can charge for a non-consensual tow. The drafted ordinance does require some very specific items and in preparing it he drafted it with an eye towards language that is in other college towns. Attorney Eggers reviewed the law of unintended consequences. A prior notice will require private parking lot owners to post signs that state the name of the company that will be doing the towing, what the fine would be and other related information. And per the Town's sign ordinance, the sign would have to be wooden and sand-blasted. Attorney Eggers outlined the ordinance, its restrictions, notice of fees and payment, etc. There was discussion regarding the posting of signs, the size of the signs, number of signs per

business, aesthetic look of the signs. Chief Hodges noted that Banner Elk Police Department is not in the booting business. We will issue parking citations and violations of Town ordinances only. This only affects trespass towing or towing out of a private lot. Mr. Owen stated that this ordinance doesn't increase someone's potential for being towed and it doesn't decrease the available parking in Town. It lays out rules that if a business is going to tow someone from their property, that business has to give notice. He noted that if a business wants to actively control their parking, they will participate in this ordinance. Others won't want to put up signs. There was discussion about designating public parking areas with signage in Town, reserved parking and handicapped parking. Mr. Owen noted that staff will do additional research on this issue and will report back next month. He wants to make sure Council is comfortable with pursuing this and wants to get feedback from the establishments in Town. It was suggested that it be taken to the Planning Board. Attorney Eggers stated that it is not required to send it to the Planning Board, but Council can by motion ask the Planning Board to consider it. He noted that it is not a zoning ordinance, it is more of a police powers ordinance. Attorney Eggers also noted that one other provision that he did not include was a provision that would allow a vehicle to be towed after it has been there for a period of time. There was discussion regarding this issue and Lees-McRae College students parking in town spaces. Council directed the Town Manager to move forward with providing more information on this issue.

### **Consider Budget Amendment – Historic Banner Elk School Project**

Mr. Owen reported that this budget amendment recognizes the donation from Mayland Community College which will be used towards the Learning Center (the back portion located in Historic Banner Elk School). He noted that at last month's meeting Council passed a budget amendment to recognize grant funds received for roof repair at the Leaning Center. Mr. Owen stated that this donation from Mayland in the amount of \$22,500 will go towards the roof repair and the installation of gutters on that building. Council Member Bolick motioned to approve the Budget Amendment #20180813. Council Member Dunn seconded the motion. All were in favor. No one opposed.

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

Council Member Bolick reported on the roof project at the back portion area where Mayland Community College is located and the walkway that joins that building to the main building. He noted that there will also be repair work to some flashing, painting, new gutters, windows and new doors. Council Member Bolick reported on some future projects to the school which includes the courtyard area.

Council Member Bolick reported on the 4<sup>th</sup> annual golf tournament which will be held on September 24<sup>th</sup> at Beech Mountain. He noted that players are still needed and three sponsorships are still available.

Council Member Tufts reported that Art on the Greene will be held on Labor Day weekend. He stated that set up will be on Friday, August 31<sup>st</sup> and the show will be held on the 1<sup>st</sup> and 2<sup>nd</sup> of September. He noted that 60 vendors have signed up.

### **Manager's Update**

Mr. Owen reported that included in Council Member's packets are the planning, zoning and tax collection reports, police report and the financial summary report for one month ending 7/31/18 was distributed. Also attached is a copy of the June 5, 2018 High Country ABC Budget Hearing

Minutes and a draft copy of the August 6, 2018 Planning Board Minutes. He stated that if there were any questions regarding these reports to let him or the staff know.

Mr. Owen stated that the High Country Council of Government's dinner will be held on September 7<sup>th</sup> at 6:00 p.m. and the RSVP deadline is August 24<sup>th</sup>.

Mr. Owen reported that the Corner on Main is making some progress. The timber frame structure is being installed and the brackets are in for the benches. He noted that the contractor, his contribution to the project, came up with the idea of building the benches into the rock wall. Brackets had to be fabricated and drilled through the rock wall giving an appearance of them floating on the front of the wall. Mr. Owen stated that Carolina Timber Works is doing a great job putting up the timber frame considering the work involved with the curvature and angles.

Mr. Owen reported that the Town is working with Lees-McRae with the inauguration of the new President which will be held on October 5<sup>th</sup>. He noted that he has met with the President and he would like to have a community picnic that would be a community/college event. Inauguration week will tie in with homecoming. A committee has been formed to work on this event. Mr. Owen stated that there will be a Thursday night concert and a community picnic to be held in the Town Park with a Founders Day event prior to the picnic. Mr. Owen is asking Council and the TDA if there is a potential for the Town to participate financially. He noted that he is looking at \$2,000 - \$2,500 from each entity. Mr. Owen noted that this will be a big event and perhaps it will become an annual event. Mr. Owen reviewed with Council the schedule of events. All Council Members showed their support for this event.

Mayor Lyerly asked about the signage around Town welcoming back the Lees-McCrae students. There was a discussion on how it could be handled, business commitment, Chamber of Commerce involvement and cost. Council Members agreed to let the Town Manager handle it and have the Town pay for the signs.

Mr. Owen reported that Lees-McRae would like to close some of the streets for the inauguration. The streets would be in front of the President's office (the T-intersection just past the library). It would be closed approximately from 11:00 until 5:00. Mr. Owen went over the plan for the need of emergency vehicles and local access. He noted that he discussed this issue with the fire department and police department and they don't see it as a problem. Mr. Owen would like to get Council's approval. There was discussion about the location of the closings and an explanation of the maps that were distributed.

Mr. Owen noted that several years ago, the college approached the Town about the use of utility vehicles on campus. Council had approved at that time for the Town Manager to seek legislative authority to allow utility vehicles and golf carts on Town streets by ordinance or rules that were set by Council. Mr. Owen reported that since that time the general statute has changed. Now all municipalities can, by ordinance, allow golf carts on Town streets. The college would like to use golf carts for the inauguration events, transporting people from parking lots, etc. Mr. Owen noted that per the map, he highlighted specific streets where golf carts need to be used. Mr. Owen asked if Council was open for him to bring to the meeting next month an ordinance allowing the use of golf carts. The way Attorney Eggers would draft this ordinance would require it to be for special occasions only detailing specific rules, etc. Attorney Eggers noted that one of the requirements for this would have to be an objective set of standards. We would have to have some

objective criteria to go with this ordinance, being careful of where we allow, what we allow and who we allow. Mr. Owen stated that the Town can regulate certain roads. There was discussion on the terminology of a golf cart, vehicle requirements, etc. Council agreed for Mr. Owen and Attorney Eggers to move forward with this.

At 7:36 p.m. Council Member Bolick motioned for Council to proceed to closed session pursuant to NCGS 143-318.11. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Council returned to open session at 8:32 p.m.

**Other Business**

Mayor Lyerly asked about the email from Fred Schmidt regarding the shows at the Historic Banner Elk School. There was discussion regarding the number of art shows to approve between the Avery Chamber of Commerce and Art on the Greene for 2019 and 2020. Currently the Avery Chamber of Commerce has two shows and Art on the Greene has three shows. There was discussion about having more shows, more vendors, money coming into the Town, the relationship between the two entities, setting guidelines for the shows, types of shows, etc.

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

At 8:54 p.m. Council Member VonCanon motioned to adjourn the August 2018 Town Council meeting. Council Member Tufts seconded the motion. All were in favor. No one opposed.

**Adjourn**

The Banner Elk Town Council meeting adjourned at 8:54 p.m.

\_\_\_\_\_  
Mayor Brenda Lyerly

\_\_\_\_\_  
Attested

Approved: September 10, 2018