

## **BANNER ELK TOWN COUNCIL**

**December 8, 2014  
MINUTES**

The Banner Elk Town Council met Monday, November 10, 2014, 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, Robert Tufts and Mike Dunn.

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

Others present: Bill Dicks, Donna Dicks, Rebecca Bolick, Penny VonCanon, Ted Silver, Tom McMurray, JoAnn McMurray, Dr. John Boyd, Melissa Phillips, Caroline Harris, Mari-liis Smyth and other interested parties.

### **Call Meeting to Order**

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

### **Approval of the Minutes**

Mayor Lyerly asked if there was a motion to approve the November 2014 Town Council minutes. Council Member VonCanon motioned to approve the November minutes. Council Member Bolick seconded the motion. All were in favor and no one opposed.

### **Approval of the Stated Agenda**

Mayor Lyerly asked Council for a motion to approve the December 2014 agenda as written. Council Member Tufts motioned to approve the agenda as written. Council Member Dunn seconded the motion. All were in favor. No one opposed.

### **Public Comments**

There were no public comments.

### **Discuss Historic Banner Elk School Project**

Mayor Lyerly reported that several people have volunteered to be on committees and asked Mr. Owen to report on the project. Mr. Owen stated that the Town did put out a request for people to apply to two committees that Council was interested in establishing to help with this project; one of which was for Fund Raising and the other for Property Use. He noted that he is still receiving names of people wishing to participate who are not listed on the attachment included in Council's packets. Mayor Lyerly stated that the Town, because of the many applicants interested in being on these two committees, should appoint chairpersons and is asking Council Members for their recommendations. She noted that at their last special meeting Council decided to nominate a chair, vice chair and a secretary to these two committees. Mr. Owen noted that Ted Silver and the McMurray's are also interested in being on a committee, but are not on the attached list. Mayor Lyerly went over several of the names that were on the list (i.e. Mr. Schmitt and Mr. Newberger who are also serving on the Board of Adjustment, etc.). There were discussions on selecting who should be on what committee along with the officers to be in charge. Mr. Eggers stated that regarding the choices for this evening Council would have to vote on who will be on the committees and who will be chairman (naming that person). Council would need to do that at a regular meeting or call for a special meeting to name that person. Mayor Lyerly noted that as of today we know of 4 people (the Murray's, Les Broussard and Fred Schmitt who have asked to serve on the Property Use Committee. Council Member Tufts noted that he would also like to serve on the Property Use Committee. Mayor Lyerly stated that she would like to sit in on both committees. Discussions continued and all agreed that we have to move quickly to get these committees established along with beginning the funding of this project before year end. Council Members Bolick and Dunn stated that they will serve on the Fund Raising Committee. Council Members Lecka and Tufts stated that they will serve on the Property Use Committee. Council Member Bolick made a motion to approve the two council members (Bolick and Dunn: Fund Raising and Lecka and Tufts: Property Use) along with the Mayor for the two committees and that these Council Members along with Mayor select and appoint additional members to the committees. Council Member VonCanon seconded the motion. All were in favor of the motion. No one opposed.

Mayor Lyerly reported that present at this evening's meeting is the President of Mayland Community College, Dr. Boyd, the Vice President of Economic Work Force Development, and the Dean of Avery Learning Center, Melissa Phillips. Dr. Boyd stated that he along with his staff feel that Mayland is not serving this area of the county very well and have looked at several options on how we can improve in this area. They began discussions with the County when the school served as an incubator, but pulled out of those discussions when they felt it wasn't going anywhere. Ms. Phillips and Mr. Owen have met several times to discuss the possibility of occupying space at the Historic Banner Elk School. He noted that Mayland is interested in two combined classrooms at the rear of the building near the cafeteria. Mayland would fully renovate it and manage the utilities in lieu of paying rent at this point. Dr. Boyd reported that they are looking at a two year contract until we see how the dynamics of attendance plays out. Ms. Phillips stated that Heritage Arts would be a big part of this project, but we want to be very responsive to the community. Mayland would like to have a designated space where we can meet the needs of the community, not be competitive with Lees-McRae, but compliment the overall educational atmosphere of the area. Mr. Owen stated that issues still need to be worked

out (time line, improvements, parking, lighting, etc.), but for now is asking if Council supports the idea. Council Member Tufts made a motion for Council to support Mayland Community College occupying space in the Historic Banner Elk School. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Mr. Owen distributed a report that the County filed when they were trying to obtain their Conditional Use Permit. It shows a map and lists sizes of all the rooms in the school building along with renderings of each room. He noted that it will give Council a better idea of all the spaces in the building for funding and donation purposes.

Mr. Owen reported that signage at the building has been taken care of. He also reported that he has been working with Jeff Gouge on the fuel oil to try to determine the remaining amount and the disbursing of the fuel oil. Mr. Owen stated that one tenant remains in the building (Bear Real Estate). The county has returned most of the keys. Furniture still remains that belongs to the County. Mr. Owen also reported that at last month's meeting he discussed installing a cut off valve to the sprinkler system in the gymnasium vs. the cost of heating that space. The same heating company that installed the existing heating system (3 electrical units and 2 gas units) quoted a cost of \$4,000 to install two heating units in the space. Mr. Owen feels that for the time being, it would be worth installing a cut off and drain to the system. Council Member VonCanon motion to approve the cut off to the sprinkler system in the gymnasium in the amount of \$982.00. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Regarding the Historic Banner Elk School, several discussions were had regarding the Fund Raising Committee, number of members (i.e. seven with 3 members being Council Members), its authority, donations, naming rights, funding programs, etc. It was concurred that in the event a committee needed to report to Council, a special meeting would be called. Council wanted to get things moving with this project. Mr. Eggers noted that upon making a naming right, some authority is needed from either the committee or the Town.

#### **Consider Ordinance Amendment, Section §111.02**

Mr. Owen reported that at last month's meeting Council Members discussed amending the Town's ordinance to allow alcohol on Town property during certain events. He noted that also at last month's meeting, Council Members went over the permit to go along with the Ordinance Amendment. Mr. Owen stated that at this meeting he would like to go over the ordinance so we can clarify that this is the ordinance the Town needs because the permit will be based on the ordinance. He noted that there are three areas that he specifically needs Council's feedback and also wants to address Council's concerns.

Council Member Dunn questioned Section B (1): *may be possessed or consumed by a person who is not an occupant of a motor vehicle.* He asked if the word should be *operator*. Mr. Eggers stated that it could be either way, but the way it is written eases the law enforcement aspect of it to not have someone consuming alcoholic in a vehicle. This avoids any issues such as is it being operated or is it being used on a street or highway. Mr. Eggers noted that it does not permit someone sitting in their vehicle drinking.

Mr. Owen reported that the three questions he has for council are:

B (4) Mr. Owen stated that it was previously 9:00 to coincide with the noise ordinance. Mr. Owen reported that he changed it to 10:00 because there is a provision in the noise ordinance where one could get a permit to go from 10:00 until 11:00.

B (10) Mr. Owen questions the use of clear, plastic cups. He noted that perhaps we can be more detailed in the permit requiring clear plastic in certain circumstances.

B (12) Mr. Owen stated that he discussed this item with Chief Clawson. This section reads now that the Town Manager has the authority to suspend or revoke the permit. Mr. Owen reported that it should also include the Police Department.

Mayor Lyerly questioned the hours or time allowed; that possibly some events might last until 11:00 p.m. Would this require an additional application form? Mr. Owen noted that this is an extension of the noise ordinance. It would not be an extension of this ordinance. Mr. Owen also noted that the cost is \$200 to extend the permit from 10:00 to 11:00. Discussions continued regarding the logistics of the time frame and the wording in the permits.

Mayor Lyerly asked Council their thoughts on the clear, plastic cups. Mr. Owen stated that the concerns that were expressed to him was the trash involved and drinking out of a can or bottle that is clearly “alcohol”. Although the Town is permitting alcohol, people feel better not seeing it. Council Members discussed the reasons for using plastic cups (clear and colored), the use of glass at special events (i.e. weddings), NC State law regarding how alcohol is dispensed or sold to people, tailgating and designated areas.

Council Member Bolick questioned the *schedule of fees* under B (5). Mr. Eggers noted that the schedule of fees will need to be addressed and adopted by Council. Mr. Owen stated that this item was discussed earlier and that Council decided that it does not intend to price the Concerts in the Park, for instance, out of doing business in the park.

Mayor Lyerly summarized that there are three changes to the ordinance: add the Police Chief or his designee under B (12), change the hours to 11:00 until 11:00 under B (4) and change clear plastic to plastic under B (10). Mayor Lyerly asked if everyone was in agreement to adopt the ordinance with the three changes. Mr. Eggers noted that he will restate the changes as intended by the Council for the purpose of the minutes. Mr. Eggers stated that paragraph 4 will read: *Beverages allowed pursuant to a permit issued in accordance with this section may only be sold, consumed or displayed between the hours of 11:00 a.m. and 10:00 p.m. (11:00 p.m. if an extension is allowed under the Banner Elk Noise Ordinance) or as allowed in the permit, whichever period of time is less.* Under paragraph 10, strike the word *clear*. Paragraph 12 will read *The Town Manager, Police Chief or their respected designee may suspend or revoke this permit without notice if deemed appropriate for the safety and convenience of the participants of the event or other citizens.*

Council Member VonCanon motioned to adopt the ordinance to include the three changes as mentioned. Council Member Lecka seconded the motion. All were in favor. No one opposed. Mayor Lyerly noted that it is a good document. Mr. Owen stated that he will prepare a permit for Council's review. Council Member VonCanon asked if the Town has a type of permit that would mirror this ordinance. Mr. Owen noted that this will be unique in that it will give us the ability to draft the permit the way the Town wants it to work and how we want people to use the Town property. Council Member VonCanon also questioned signage for events where alcohol will be allowed. Mr. Owen stated that the permit will designate the area where alcohol can be consumed and signs will be posted for that event. They won't be permanent signs.

### **Consider Closing Capital Project**

Steve Smith addressed council. He reported that the Streetscape Fund was opened in 2000 to account for the five phases of the sidewalk construction in downtown Banner Elk. From an accounting standpoint, the Town needs to close out this account if Council determines the project is complete. There has been no activity in this account since 2006. Mr. Smith noted that the Town can continue to build future sidewalks and sell Streetscape Bricks. There are no outstanding grants or bills related to streetscape. Mr. Smith noted that the balance in the fund in the amount of \$35,936.56 represents revenues over expenditures of this project. These will remain available for future sidewalk projects. Council Member Tufts asked where the monies came from. Mr. Smith noted from grants, donations, TDA and stated that he didn't know of any money that came from fees from developers. It was unsure if the Klonteska Drive project was ever completed or if the fees were ever paid. Mr. Smith stated that he would look into it, but doesn't believe those fees are included in the fund balance figure. Council Member Tufts motioned to declare the Streetscape Project complete and perform a year-end close out of the 60 Fund. 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 financial report, police report, planning, zoning and tax collection report. Also included is a copy of the Planning Board Meeting minutes of December 1, 2014 and the High Country ABC Board Meeting minutes for October 9, 2014. Mr. Owen noted that if there were any questions regarding these reports to let him or staff know.

Mr. Owen reported that the past week's Christmas activities went well considering the weather and that the Christmas Market held raised \$695 towards the Historic Banner Elk School project. He noted that the parade drew a large crowd and basically it was a successful event.

Council Member Tufts thanked Jo-Ann McMurray for all her work. Mayor Lyerly concurred that it was a lot of work and thanked her also.

At 7:34 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 9:10 p.m.

**Other Business**

Mayor Lyerly and Council Members congratulated Council Member VonCanon and Penny on their 52 years of marriage.

Council Member Dunn made a motion to change the supervision responsibility of the receptionist away from the Finance Officer and place it under the Town Manager. This would include waiving the restrictions of Article V, Section 4 of the personnel policy in this instance. Any grievance related to this staff member would be reported to the Mayor. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Mr. Eggers noted that he would review the personnel policy and recommend any needed change related to this motion.

Mayor Lyerly reminded everyone of the Christmas Drop-in for Town staff and committee members on December 19<sup>th</sup> beginning at Dunn's Deli and ending at The Perry House. Council Members went over the logistics of the event and foods that will be prepared.

Mr. Owen also reminded everyone of the Christmas luncheon for the staff on December 12<sup>th</sup>

There being no further business, at 9:20 p.m. Council Member Bolick motioned to adjourn the December 2014 Town Council meeting. Council Member Lecka seconded the motion. All were in favor.

**Adjourn**

The Town Council meeting adjourned at 9:20 p.m.

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Mayor Brenda Lyerly

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Steven R. Smith  
Finance Officer/Clerk

Approved: January 12, 2015