

BANNER ELK TOWN COUNCIL

**December 14, 2015
MINUTES**

The Banner Elk Town Council met Monday, December 14, 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, Robert Tufts and Charlie VonCanon.

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

Call Meeting to Order

At 6:00 p.m. Vice Mayor VonCanon called the regular monthly meeting for December 2015 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 9, 2015 Town Council Minutes. Council Member VonCanon motioned to approve the November 2015 minutes as submitted. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Issuance of Oath of Office

Cheryl Buchanan administered the oath of office to Brenda Lyerly, David Lecka, Allen Bolick and Charles B. VonCanon, Jr.

Selection of Mayor Pro Tempore

Mayor Lyerly stated that she will now accept nominations for this selection. Council Member VonCanon noted that according to protocol, this position is filled by the one with the highest number of votes. He nominated David Lecka as Mayor Pro Tempore. Council Member Bolick seconded the motion. Mayor Lyerly asked if there were other nominations. There being no other nominations, Mayor Lyerly closed the selection. All were in favor of David Lecka as Mayor Pro Tempore. No one opposed.

Approval of the Stated Agenda

Mayor Lyerly asked if there were any additions or changes to the December agenda. Council Member Tufts motioned to approve the agenda as stated. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Public Comments

There were no public comments.

Budget Amendment

Mr. Owen reported that the Town has set up new accounts in a new fund for the Historic Banner Elk School. The last one that was set up was in regards to the work done in the Lending Library. The Town would like to set one up related to the golf tournament to manage the revenue and the expenditures that were incurred. He noted that the budget amendment Council Members have before them does not show the exact amount for the revenue and expenses. It is a budget amendment that would cover a portion of the revenue received, approximately \$27,000, and would cover all of the expenses which were just over \$6,000. Mayor Lyerly asked if there was a motion. Council Member Bolick motioned to approve the budget amendment. Council Member Dunn seconded. All were in favor. No one opposed.

Historic Banner Elk School Project Updates

Fred Schmitt reported that the meeting with CPN (Construction Professionals Network) was very promising. The group consisted of eight individuals (architects, engineers, attorneys, marketing professionals) all with impressive resumes. He noted that they spent this past Thursday and Friday with the Town. Mr. Schmitt thanked the Mayor, Council Members and concerned citizens who attended the sessions with CPN and providing valuable input. There was a tour of the school and several meetings held where questions were posed and a lot of feedback given. Mr. Schmitt feels that CPN better understands the Town's situation. Their official report with their observations and recommendations will be delivered by the CPN chairperson, Arty Bolick, at the January 11, 2016 Town Council meeting. Mr. Schmitt stated that bottom line, CPN reported that the Town has a very beautiful facility with a significant amount of potential. CPN will offer the Town specific recommendations on how the Town can use and manage the school in ways that will highlight its location and its many recreational, historical and educational opportunities. Mayor Lyerly thanked Fred Schmitt for all the work he did in making the meeting with CPN possible.

Mr. Owen reported that he has discussed with Council the potential of creating a non-profit entity that would enable the leasing of the Historic Banner Elk School property. Mr. Owen handed out the Articles of Incorporation, the Purpose Statement and By-laws which Four Eggers drew up. Mr. Eggers reported to Council that the documents they had in front of them are a set of proposed Articles of Incorporation for the HBES Leasing Commission, Inc. It is the overall governing article for this organization which is required to be sent to the Secretary of State to actually create the entity. Mr. Eggers reviewed the document and its contents with Council Members. He noted that he designated the Town Manager as the Registered Agent. The Statement Purpose attached to the Articles of Incorporation is required for a non-profit corporation to exist. Mr. Eggers stated that it would be for the purpose of helping to preserve the Historic Banner Elk School for future generations, enhancing its appearance and financially supporting it for purposes that would be consistent with being a non-profit corporation. He noted the limitation of activity is required by the Internal Revenue Service which states that it cannot engage in any political activity and cannot carry out any profit activity that would result in its members having a financial windfall at the end of the fiscal year. Mr. Eggers noted that the way it is setup, the corporation will not have members per se but will be governed under its by-laws and by a commission nominated by their position; one being the Mayor and another the Town Manager. There will also be other appointed members. Town Council will serve as the initial

Board of Directors for this corporation for a period of 60-days. Mr. Eggers further went over the contents of the documents. He noted that he will need the approval of Council to proceed with the process and the preparation of the documents associated with the formation of the nonprofit corporation. Mr. Eggers noted that a draft of the By-Laws has been prepared, but does not need to be acted upon at this meeting; not until the nonprofit corporation has become an active entity. These are subject to change and review by the Town Council. He noted that he would like Council to address a couple of items: the qualifications and who they wish to appoint to serve in this capacity, whether they are eligible to receive compensation for their services and whether an officer would be eligible to receive compensation for their services. It depends on how much work will go into serving on the corporation. The way the draft currently reads is that the directors of the non-profit can set the terms as they see fit. Mr. Eggers stated that once the non-profit is set up, Council will want to enter into a lease to lease certain properties to the non-profit. Council Member Tufts asked if Council needs to designate certain spaces to be leased or is it the entire property. Mr. Eggers stated that Council would have to determine if the spaces will be long term or short term. Council Members discussed the entire property, common areas and specific rooms and the transferring of as much or as little of the property as Council deems appropriate. Council Member VonCanon noted that he sees this as being very beneficial to the Town and would eliminate a big load off of the Town Manager's shoulders. Mr. Eggers noted that the document is a draft and any information Council would like to add or alter, it is subject to change. After further discussion, Council Member Dunn motioned to proceed with the Articles of Incorporation as set forth this evening. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Mr. Owen reported on Mayland Community College. He stated that they have worked very hard in getting the front classroom ready by December 5th. Their intentions are to start holding classes there in January 2016 and they are still working on the other two rooms.

Mr. Owen reported that the Town is working/repairing the sidewalk in front of the school making it ADA compliant along with adding two handicap parking spaces. He noted that they took down the exterior breezeway between the cafeteria and the main building.

Mr. Owen reported that Stewart Gray was working on the school receiving an Historic Designation. Several years ago, the Town began an application process to place the school on the Historic Registry. Mr. Gray began to talk with the regional contact person in Asheville. Things were moving along smoothly until the person started reviewing the files and noted that the windows had been changed on the school. Mr. Owen noted that the windows will be a hindrance to having the school put on the Historic Registry list of considerations. Even though the windows look similar to the original, they are considered substantially different. In the interest of the donor, Mr. Gray doesn't see it worthwhile to continue to spend money on proceeding with the process. Mr. Owen stated that Mr. Gray may proceed with the option of making the school a local historic designation.

Mr. Owen stated that he wishes to address Council regarding dates for summer events to be held on the school property grounds. The Avery County Chamber of Commerce is requesting two summer dates in July and August to hold their arts and crafts shows on the school property. Kimberly Tufts' art shows are typically held on Memorial Day, 4th of July and Labor Day. Mr. Owen noted that the Avery Chamber is wanting to hold their shows on July 15th, 16th and 17th and on August 12th, 13th and 14th. Council Member Tufts stated that he was against the Chamber

having the two shows so close to the July 4th holiday weekend and Labor Day holiday weekend; there being a conflict with customers, vendors, etc. Mayor Lyerly noted that if the Avery Chamber doesn't get the July show in the Town's school property, they will find another location outside of Banner Elk which is a loss of business for our Town. She stated that the Avery Chamber does a lot for Banner Elk drawing people into our Town. Council Member Lecka agreed. He stated that the Town should accommodate the Avery Chamber next summer and encourage them to look for at least one other option in the future. Discussions carried forth regarding the rental rate for the space for the three days. Mr. Owen noted that last year the fee was \$750. He recommended that Council entertain at least \$1,000 for the upcoming summer. The President of the Avery Chamber, Nancy Morrison, spoke to Council reporting that they have held these shows for over 25 years and to date have 85-90 vendors interested in them. She noted that they are aiming at attracting higher end arts and crafts. Mayor Lyerly asked Council if there was a motion. Council Member Lecka motioned to permit Avery County Chamber of Commerce to hold its two shows in 2016. Council Member VonCanon asked that a caveat be placed on the motion; that the Chamber will look at an alternative method the following year. Council Member Lecka agreed with the addition to the motion. Council Member VonCanon seconded the motion. Mayor Lyerly asked if there were any further questions or comments. Council Member Tufts noted that he was not against the Avery Chamber having the art shows, he was opposed to the total number and timing of shows held at the school property. Council Members Bolick, VonCanon, Dunn and Lecka were in favor of the motion. Council Member Tufts opposed the motion. Mayor Lyerly noted that the motion carried.

Audit Contract Amendment

Mr. Owen stated that included in the Council's packet is a copy of the *Amendment to Contract to Audit Accounts* that the Town has been asked to do by the Local Government Commission. The Town's audit is due by October 31st. However, this year due to adjustments and issues that needed to be corrected, the audit was not completed by the due date. In addition to the audit, the LGC is requiring Council so submit the Amendment Contract. Mr. Owen noted that the only fallback he foresees is that the Town is agreeing that November 23rd was the date that the Town agreed to have the audit completed versus October 31st due to internal issues (i.e. new auditor, new staff, etc.). This Amendment required by the LGC is a pre-confirmation that the Town submitted the audit after the due date. Council Member Bolick motioned to approve the Audit Contract Amendment changing the date to render the audit report from October 31st to November 23rd. 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 packet were the police report, planning, zoning and tax collection report. Also included was a copy of the October 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 someone contacted him in regards to a bicycle event called Mountain to Coast Bike Ride which is put on by Cycle North Carolina, an event held since 1999. The event will take place the last weekend in September. The group is interested in starting the ride at Lees-McRae. Mr. Owen noted that the group involves approximately 1,100 people, so there will be parking and lodging issues, but Lees-McRae has been contacted and they are working with this group and the event. Mr. Owen noted that he doesn't foresee any problem with this event occurring within the Town and is asking Council if they have any questions or concerns

regarding the event. Council Members all agreed that the event would be good for the Town. Council Member Dunn expressed his concern regarding lodging for this event and asked if Lees-McRae was exempt from a lodging tax. Attorney Eggers stated that he would look into it and would report back.

Mr. Owen stated that he was looking at having a Christmas lunch for the staff on Wednesday, December 23rd and is inviting Council Members to attend.

At 6:48 p.m. Council Member Bolick made a motion for Council to proceed to closed session pursuant to NCGS 143-318.11. Council Member Tufts seconded. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.

Council returned to open session at 7:23 p.m.

Other Business

Mr. Owen asked Council to consider a Christmas bonus for Town staff. Last year the total cost to the Town was \$5,600. Mayor Lyerly asked if Mr. Owen knew what other municipalities in the area were doing. Mr. Owen noted that he did not ask this year. Council Member Tufts motioned to approve giving a \$250 Christmas bonus to each full time employee, \$500 to the Town Manager and \$125 to the part-time employee. Council Member VonCanon seconded the motion. All were in favor. No one opposed. Mr. Owen thanked Council Members and noted that his intention is to hand the bonuses out at the Christmas luncheon.

Council Member Dunn stated that someone approached him regarding the Banner Elk Fire Department's whistle and wanted to give a heads up to Council Members. A discussion was had regarding the pagers, volunteer fire fighters and their procedures, etc.

There being no further business, at 7:34 p.m. Council Member VonCanon motioned to adjourn the December 2015 Town Council meeting. Council Member Dunn seconded the motion. All were in favor.

Adjourn

The Town Council meeting adjourned at 7:34 p.m.

Mayor Brenda Lyerly

Attested

Approved: January 11, 2016