

BANNER ELK TOWN COUNCIL
November 12, 2012
MINUTES

The Banner Elk Town Council met Monday, November 12, 2012 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

Staff present: Town Manager Rick Owen, Chief Bill Burleson and Town Attorney Four Eggers. Mr. Owen did not request the staff to be present in observance of Veterans' Day.

Others present: Penny VonCanon, Ted Silver and Jamie Shell of the Avery Journal.

Call Meeting to Order

At 6:00 p.m. Mayor Brenda Lyerly called the regular monthly meeting for November 2012 to order.

Pledge of Allegiance

Mayor Lyerly led those in attendance in the Pledge of Allegiance.

Invocation

Council member Bolick opened the meeting with prayer.

Public Hearing: Street Renaming from Buena Vista Way to Lees-McRae Drive

Mayor Lyerly opened the public hearing. Mr. Owen addressed council noting that he thought Bill McGowan would make it to this evening's meeting to speak on behalf of Lees-McRae. Lees-McRae has made the request to change the name for the purpose of giving the college more name recognition. Dr. Buxton, who is recovering from knee replacement surgery, couldn't make the meeting either. Mayor Lyerly recalled that council discussed the history of the name Buena Vista and asked if anyone had any concern regarding the name change. Council member Draughon voiced her concern about changing it and stated that she tried to contact Elsie Beasley for information on the history of the name. Mayor Lyerly stated that she knew the history. She noted that her husband Alec's great grandfather's home was located where the Chaffee Administration Building is located. Alec informed her that his great grandfather named it because of the view of Beech Mountain; Buena Vista which means beautiful view. Council member Tufts noted that he looked back on the deeds that were recorded for his property, going back to the late 1960's, and noted that the street has been called a number of names from College Drive to College Road. Mayor Lyerly stated that it is Lees-McRae's property and asked if anyone was opposed to changing the name. Council member Draughon was opposed to the name change because of its history. Council member VonCanon was not opposed to it, but noted that he agreed with Ms. Draughon that he loves the name and because of its history, hates to see it change. He also stated that their purpose is a street sign issue. They want to better advertise their college and because it is their property the town should honor their request. Council

member Tufts noted that they have a very large sign just ten yards away and a little street sign isn't going to make much of a difference. He also noted that council should be cautious of just changing street names for anyone coming in to petition to the town. He felt that someone from the college should be present to discuss this issue. Council member Bolick stated that he also has mixed feelings, could vote either way on the issue. He understands the historical perspective but also understands the college's point of view. Mayor Lyerly stated that the town has tried to be of assistance to Lees-McRae as much as possible. She felt that if we don't provide this name change as they requested, it might look as though the town is hard to get along with. Penny VonCanon addressed council stating that she works at the Visitor's Center and the Cheese House. She finds that many people have a hard time finding Lees-McRae, that many people rely on their GPS. She said that if the street was named Lees-McRae Drive it would be found on GPS. Council member Tufts offered council the option to table the issue till next month's meeting. Mr. Eggers noted to Mayor Lyerly that council was in a public hearing and that it could only be tabled when it becomes an agenda item. Mayor Lyerly asked if there was any further discussion. There being no further discussion, Mayor Lyerly closed the public hearing.

Approval of the Minutes

Mayor Lyerly asked council for a motion to approve the October minutes. Council member Lecka motioned to approve the minutes as written. Council member Tufts provided a second. The October 2012 minutes were approved with all in favor and no one opposed.

Approval of the Stated Agenda

Mayor Lyerly asked council for a motion to approve the November 2012 agenda as written. Council member VonCanon made a motion to approve the agenda as written. Council member Draughon seconded the motion. The agenda passed with all in favor.

Public Comments

There were no public comments.

Street Renaming from Buena Vista Way to Lees-McRae Drive

Mayor Lyerly introduced the agenda item and asked council how they wished to proceed. She asked if we should proceed with making a decision to agree to the name change or do we need a representative from Lees-McRae to present their petition. Council member Tufts responded that at other meetings if an applicant didn't show up, we tabled it. Mayor Lyerly noted that this item is pretty cut and dried. Council member VonCanon didn't see any reason to put it off. Lees-McRae made a written request, there is no decision to be made as far as the size of the sign or color and it is straight forward. Council member Lecka made a motion to approve the change. Council member Bolick seconded the motion. Council member Draughon stated that she felt it was very important that the town try to retain as much of the history of our town as possible. Council members Lecka, Bolick and Tufts were in favor of the name change. Council members Draughon and VonCanon opposed the change. Mayor Lyerly stated that the motion carried and the street name will be changed.

Funding Request Process

Mayor Lyerly introduced agenda item #2 and asked if any progress was made since the last meeting. Mr. Owen stated to council that at the last meeting he asked for input from council members on how they would like to proceed this year in receiving funding requests. He noted that there was some conversation about forming a committee to review the requests. Mr. Owen spoke with several people about being on the committee and they were divided about how they would have allocated money last year. He felt that if a committee were formed they would still need guidelines from council. Mayor Lyerly stated that we do need a different process from last year because the town felt obligated to do some things that we might not have done otherwise. Council member Lecka stated that council sets a dollar amount in the budget every year. He agreed that when someone requests money, a form should be filled out, but the form should be more informative (i.e. the amount requested, how much money are they receiving from other sources, what are their expenses, what are their administrative costs, etc.). We need to see their total package. He also felt that there should be a deadline on when the request should be filed. Mayor Lyerly agreed totally. Council member VonCanon asked how the town would let the public know that this is an opportunity for them. Mayor Lyerly stated that she had a hard time giving out a lot of money. She felt that monies that the town gives out should be something in which the taxpayers would benefit. The town should definitely give to our fire department and rescue squad because these benefit tax payers. Mr. Owen stated that perhaps council should set some guidelines on who should apply in the first place. This may help weed out various peoples from requesting funds. Council member Draughon stated that she felt that having a committee isn't necessary, that it should be council's responsibility. Mayor Lyerly noted that the town's budget meeting occurs in April or May prior to our new fiscal year. We should ask that all funding requests should be presented to the town prior to our budget meeting and then make the decisions at the budget meeting instead of at our regular town council meeting. Mr. Eggers stated that this recommendation would be appropriate. Council members agreed. Council member Tufts stated that there have been several years where groups asked for money from both the town and the TDA. Mayor Lyerly asked Mr. Owen if he received enough feedback from council. Mr. Owen responded saying that currently in the budget for this fiscal year is \$10,000. He stated that what he is hearing this evening is that they want to look at the funding requests during the budget process. His only concern is that during the budget meetings, council becomes bogged down with the numbers and he hates to see this become a major component of the budget process. Mr. Owen encouraged council to continue to set a dollar amount so that the dollar amount won't be swayed by the applicants. He reiterated that currently \$10,000 is in the budget and a meeting can be called whenever to discuss how you want it allocated. Mr. Owen told council that he will distribute the forms to council to review. Any changes can be set forth at December's meeting. Council member Tufts raised a question. He asked should the town be giving out money? He researched other towns and it was split 50/50. Council member Lecka stated that the town should not be afraid to say no. Council member Draughon asked why council had to make this item a big event. Mr. Owen noted that historically the town hasn't had a lot of people looking for money. Basically it has always been the fire department and the rescue squad. It seems that once we had the form, everyone wanted to fill it out. Mayor Lyerly stated that the Humane Society will definitely come again and ask for more money because they

are helping the town with stray dogs and cats. Mr. Lecka stated that as Mr. Owen suggested we review the form at our next meeting and accept requests at any time. He noted that it is a hard decision, but it is the town's money, tax payer's money that is at stake. Mr. Ted Silver was recognized and he stated that he agreed with Mr. Bolick that the town needs to set some type of criteria. Mayor Lyerly noted that in the past, prior to this form, someone would just come to a council meeting and we made a decision. She felt that now we are at least putting it in some kind of procedure. Mr. Owen noted that he now has enough information and will email the form out to all council members for their review. No action was taken.

Sale of Police Vehicle

Mr. Owen reported that several months ago council passed a resolution to establish procedures for the disposal of surplus property by the town manager and staff. One of the ways was through an electronic auction site, govdeals.com. Part of the resolution was that anything over \$2,000 would need council approval. He reported that the 2003 Dodge Durango was sold on Friday for \$2,047.00. Mr. Owen stated that this was the town's first shot at this web site and noted that in the future they will set it up to where the bid ends on a council meeting day so that if anything comes over \$2,000, he could report it to council that day. Although the vehicle is sold, Mr. Owen hopes that council will approve the sale. Council member Bolick made a motion to approve the sale of the 2003 Dodge Durango for \$2,047.00. Council member VonCanon seconded. All were in favor. No one opposed.

Police Department Roof Replacement

Mr. Owen stated that this item was discussed at the budget process, but at that time the staff didn't have a recommendation because no one had come out to look at it to inform us if it could be repaired or needed to be replaced. The roof does need to be replaced and he suggests metal. Mr. Owen reported that the pitch of the roof is too low for shingles to hold up well. Council member Draughon asked the age of the roof. Chief Burleson noted that when the department moved into the building in 1995/1996, the roof was in fairly good shape and nothing has been done to the roof since that time. Mayor Lyerly asked the longevity of a metal roof. Council member VonCanon stated that it would last up to 50 years. Chief Burleson reported that he met with a representative from a roofing company and they told him the police department would be lucky to get 20 years out of a shingled roof here in the mountains along with the pitch of the roof. Shingles won't hold up. He also stated that we are past the point of putting shingles on the roof. The price is the same for metal and shingles. Metal roofs can be installed any time versus with shingles, which are dependent on the weather. Mr. Owen reported that they received a price for a 29 gauge metal roof with a five year warranty on labor, forty year warranty on no rust on the roof and four year warranty on the paint. He also reported that the price was \$14,000, but the town will get two other prices before we move forward. Council member VonCanon stated that for fun he counted the number of metal roofs within the town limits, just on highways 194 and 184, and there were 33 metal roofs. Council member Tufts asked that once the shingles are removed will there be damage underneath? Mr. Owen stated that the quote the town received was to leave the shingles in place, but there is water damage on the inside. They will get in from the inside to repair the damage. The present insulation is blown in, but Mr. Owen would like to pull that insulation back and assess the water damage (i.e. mold, mildew). Mayor Lyerly asked Mr. Owen if he needed a motion from council. Mr. Owen replied that he wanted a consensus to

do a budget amendment at a future date once he knows the exact cost. Mr. Eggers suggested to Madam Mayor that she get a motion to give the town manager the authority not to exceed \$14,000 tendering a contract with the lowest, responsible bidder. Mayor asked if we had a motion to that effect. Council member VonCanon made a motion. Council member Lecka seconded the motion. Council member Draughon asked who in the room had a metal roof on their house. Several responded yes. Mr. Draughon stated that to put that type of roof in this town is criminal. She feels that it is incomprehensible that anyone would stick a roof like that on a town building. Mayor Lyerly noted that they are classier than they used to be. Ms. Draughon stated that she would rather see a trailer stuck in town than one of those metal roofs being installed on a building. She would maybe accept one on a service station or a barn and they don't have the charm of an old tin roof and she noted that they look so out of place in this area. Council Tufts noted that there is a metal roof on this building and the town is planning on putting a metal roof on the building in the park addition. Ms. Draughon stated that the cedar shake that used to be on this building was nice. Council member VonCanon stated that he did a lot of research. He noted that metal roofs are greener than an asphalt roof, which has oil in it. The recycling is much better on metal. If the town is looking at being greener it would be better for the town. In addition, the longevity is two to three times as long as a composition roof. Council member Draughon's concern is the appearance. Chief Burleson stated that he is looking at longevity and what he has been told is that the new asphalt shingles are not as good as the old ones. He was told that a 35 year shingle won't last where we live and is not as good as ones from years ago because they use different materials. Chief Burleson noted that it was priced \$14,000 for shingles and \$14,000 for metal, so they won't make more money one way or the other. Council member Lecka stated that his only comeback is concerning the spending of taxpayer dollars and the longevity of a metal roof versus the asphalt composite roof. He understands Ms. Draughon's concerns about appearance being important. Mayor Lyerly stated that we have a motion and a second and asked for a vote. In favor of the metal roof replacement were: Council members Allen Bolick, David Lecka, Robert Tufts and Charlie VonCanon. Opposed was Council member Gail Draughon. Mayor Lyerly noted that the motion carries. Council member Tufts noted that he remembered that the motion was to enter into a contract to replace the existing roof. It said, if someone comes along with a 50 year shingle roof that it would be considered. Mr. Owen said he would, but that he isn't looking for that. He noted that he has three contractors looking at putting in a price for a metal roof. He would be happy to ask them to price a shingle, but he is certain that they would not recommend a shingle. Chief Burleson stated that no one would put a shingle roof on this time of the year. The problem remains that the roof is leaking and it needs to be resolved. Mr. Lecka asked that while the roof is being replaced will repairs also be made to the damaged areas. Mr. Owen noted that once it is sealed it will be repaired and that anything that needs improvement will be made at the time so long as our budget allows. Mr. Lecka noted that with a metal roof more insulation is required because of the noise level. Mr. Owen stated that too will be under consideration.

Preserve America Committee

Mr. Owen reported that at the last council meeting he and Cheryl Buchanan agreed that we need to reestablish this committee, which was adopted in September 2008. Council needs to appoint members. Three members are currently eligible for reappointment: Donna Dicks, Gail Draughon and Penny VonCanon. Mr. Owen also stated that Mayor Lyerly showed an interest in being a member of this committee. Mr. Owen also reported that there are a couple of projects coming up that will require this committee's review. The Preserve America Committee reviews projects before the planning board and the board of adjustment. He would like this committee reestablished soon. Mayor Lyerly reconfirmed with Mr. Owen that six members were needed. Mr. Owen said that we will need six eventually, but four are needed now to give us a majority. Council member Tufts stated that his wife, Kimberly, was interested in being part of this committee. Mayor Lyerly stated that we now have five people that we can go ahead and appoint. Council member VonCanon made a motion to appoint these five individuals as members of the Preserve America Committee. Council member Lecka seconded the motion. There was no further discussion. All were in favor. No one opposed. Motion carried.

Manager's Update

Mr. Owen reported to council that the financial report, police report, planning, zoning and tax collection reports were included in their packets along with minutes from the High Country ABC Board.

Mr. Owen reported that the town has not signed the contract for the park expansion project. It is ready to be signed, but have not heard back from PARTF on approving the new budget. He was told they will approve it, but additional paper work was needed. He reported that Derek Goddard and Four Eggers were working on finalizing the contract. He is hoping that this week the contract will be signed for the grading portion of the project.

Mr. Owen stated that Thursday night is the next High Country Municipal Association meeting at Seven Devils. He will send the agenda out to everyone. He indicated that Mayor Lyerly, Charlie VonCanon, Allen Bolick and Robert Tufts were going to attend the meeting which will start at 6:30 p.m.

Mr. Owen noted that when he became town manager, there was discussion regarding credit card payments in town hall. The town signed up for a service that was free to the town, but there was a service fee charged to the people who used it. The service, Official Payments, has now reported that they will require minimum usage from town citizens to continue to provide it for free. The fee that they want to continue is one third of what the town actually collects. The town will look at other means.

Mr. Owen reported that there was a brush fire between Crooked Creek and The Farm yesterday. There was some time in determining the location of the fire. An air plane from the fire service finally was called in to locate the fire. It was fought from The Farm and from Crooked Creek. No buildings were damaged, but several acres were burned (under brush and leaves). It was a scary situation for a home in Crooked Creek for it came within road width of the home. Three fire departments (Banner Elk, Beech Mountain and Linville) and the fire service responded. Once the fire was located, it was contained pretty quickly.

Mr. Owen reported that on December 7th the Christmas park lighting will be held. There will be a parade beginning at the historic elementary school and ending at the park. There will be a train and 700 luminaries

Mr. Owen also noted that the staff receives telephone calls all the time regarding the burning in town. The town does issue burning permits, but the issue came up regarding putting restrictions on the burning within the town limits. At present we follow the guidelines that the forest service regulates. There have been complaints from citizens about neighbors burning and wind direction which affects them. The town does have a nuisance ordinance which the town could enforce regarding this. Mr. Owen wanted to present this issue to council to get their feedback. Mayor Lyerly asked if this was an issue. Mr. Owen replied that the biggest issue was in regards to a piece of property that is in the ETJ which is a huge issue for the neighbors around this property. There are also areas in town near Dogwood and Balsam where people burn and the smoke blows into Crooked Creek. It is a complaint that the town receives and Mr. Owen just wanted to update council on this issue. Charlie VonCanon reported that he has eight acres in which there is constant trimming to do. He tries not to burn when the Louisiana Purchase or art gallery are open. He tries to be mindful of other people. Council member Bolick brought up Crooked Creek and that an individual on Dogwood burned for 24 hours. He thought about this for a long time and asked what the town could do. He stated that next time in budgeting the town could consider a chipper and either provide this to citizens as a service or for a fee. He thought this could be a consideration to provide a means to citizens as a way to dispose of brush and limbs. Mayor Lyerly agreed and stated that Mr. Bolick had a good thought. She agreed that when she trims there is no place to dispose of the yard waste. Mr. Owen stated that he has contacted High Country Waste to see if they can provide a type of service. They made an offer to provide a couple of seasonal pickups and their initial offer was no charge, but Mr. Owen stated they are still talking about it, whether they would charge a monthly fee. Council member Bolick also stated that leaves are a problem. Mayor Lyerly noted that the people who are burning will not take advantage of the garbage pickup if there is a monthly fee. Council member Tufts stated that his opinion is to leave it as it is for the time being as a nuisance driven ordinance and that if there is a problem, the person should file a formal complaint. Chief Burleson made a recommendation. He stated that if we know it is something illegal that is being burned, we can call the fire marshal in the county and have him handle the situation which would take some pressure off of the town. It is his expertise. The fire marshal can fine the person or a visit from him would carry enough weight to stop someone from illegal burning. The town should use the county's resources. Council member Tufts suggests tightening up the enforcement, but unless the town gets a lot of complaints, he would hate to set up a whole new set of laws. Mayor Lyerly suggested we do all that has been brought forward. She liked the idea of a chipper and asked if it was expensive. Mr. Owen stated that it could be, but that it can be considered again from the standpoint of the need for leaf removal. He also noted that the street sweeper is inefficient because it doesn't mulch or chip, just sucks up, so the staff spends more time emptying it. Mr. Owen also noted that a local landscaper demonstrate a vacuum that mulches and chips. He worked on Klonteska and it really did a good job. Council member Tufts voiced his concern about the town's liability having other people other than our staff use a chipper that the town

owns. Mr. Owen stated that we will look into all possibilities and in the meantime will enforce the nuisance ordinance. Mayor Lyerly added that we need to call the fire marshal.

Mr. Owen stated that as a point of interest, but everyone who will be attending Thursday night's meeting will hear it then too, there is a conversation taking place at the state level referencing hold harmless money. The town is not affected. This is money that towns in North Carolina were receiving. The state passed legislation to change some sales tax structures. They took monies away from communities and replaced them with other monies. Over a ten year period these monies were being phased out so that the towns were receiving hold harmless monies. At the League meeting there was a lot of discussion about hold harmless monies. Mr. Owen talked with Steve Smith because the town does have a line item in our budget. The town is eligible for this money, but our tax structure is such that we've always received more than what we were receiving when the state took it away from us. Historically we've always gotten more and will always get more, so it doesn't affect us. It has three different names: Article 44, City Hold Harmless and Transitional Hold Harmless. The word transitional is the key word; if you are in it or not and the Town of Banner Elk is not in it. Seven Devils, Sugar Mountain and Beech Mountain all receive it. Mr. Owen wanted to inform council that if they hear of this that they should be aware that the town is not affected. Mayor Lyerly noted that Boone is not affected either.

Mr. Owen reported that the Chamber of Commerce has been talking about promoting Banner Elk and how other entities are doing similar activities (i.e. Lees-McCrae, museum, TDA, etc.). A lot of conversation has been happening regarding advertising and promotion and it would be to everyone's benefit to get everyone on the same page or understanding what each party is doing. One item is promoting the notion that Banner Elk is a place to live not just a place to start a business. He noted that out of these conversations came the question as to whether there would be an interest from the council to participate in some group meetings to talk about how Banner Elk can be better. Mayor Lyerly stated that we should participate.

Mr. Owen reported that he and Ted Silver had a meeting concerning the Greenway Trail. The town has gone through the survey process already. He doesn't want the survey to be the only thing the council hears about as we consider the alternatives. They met with a gentleman who suggested letters of intent from property owners. These aren't a binding agreement, but a letter of intent that would show an interest in working with the town. Mr. Owen is requesting council to give him permission to work with the attorney to review a letter of intent that he can approach property owners along all greenway routes to discuss with them their feelings and interests in the greenway trail. Ted Silver reported that we want to move to the next step, continue to be transparent in that we are open and looking at any particular alternatives that might be available to make this greenway trail possible. He stated that the non binding letters of intent can help direct where we can go easily to direct people and where the problems may arise. Mayor Lyerly stated that this is an excellent way to go. Mr. Owen stated that he needs a consensus from council for the town manager to approach property owners with a letter of intent to see if they are interested in the process. Council member VonCanon agreed that it is good public relations and is the way to proceed.

Mr. Owen had nothing else to report

Mayor Lyerly asked Chief Burleson, based on his report, if there were more service calls this month than typically? She noted that there were 34 calls. Chief Burleson stated that they were based on different categories.

Council member Draughon questioned the speeding report. Chief Burleson stated that several are under warning citations. Mr. Owen asked Ms. Draughon if she felt that there is speeding taking place and that the town is not controlling it. He asked her concern. Chief Burleson stated that a speeding ticket gets rather expensive with court costs, etc. It is not what it used to be.

Council member VonCanon asked about the accidental death at the Mill Pond. He asked if there was any way the town could get a guard rail placed at that area. Mr. Owen stated that he spoke with Dean Ledbetter about this. He and the Chief will be doing follow up. Mr. Ledbetter gave him no indication that a change will be made. Every accident is different. DOT will look into it. Chief Burleson agreed that something needs to be done. Mr. Owen noted that DOT tells us what we can or cannot do along that road, but yet they don't have an easement. That section in particular where the culvert is, he is certain that is theirs, that the town would not have any responsibility for the culvert or abutments.

Council member Tufts asked if GDS is permitted to operate in town. Mr. Owen stated that they are not, but they do pick up at the elementary school. Mr. Tufts saw one of their trucks going into Ace Hardware. Mayor Lyerly asked why GDS picks up the school's trash. Mr. Owen stated that they have a contract with the county for all the schools. Mr. Tufts also stated that he noted that near NAPA there were three large pole flags. He asked if that was allowed by our ordinance. Is that property in town? Mr. Owen noted that the answer is complicated. The property does fall under the town ordinances and the business owner is trying to work around the ordinance to have the flags. Staff will be reviewing the issue.

Council member Tufts noted that upon reading the Southern City, he noticed that there has been nothing mentioned about Banner Elk for a long time. He thought that maybe through the TDA and the Chamber that we could do more to get Banner Elk mentioned in publications.

Council member Tufts mentioned that he would like to do an open house or Christmas appreciation for employees and committees, boards, etc. Mr. Owen stated that he is open to whatever council would like to do. Mayor Lyerly agreed that it is nice for us to do and said that she would have it at her house. Council member Draughon stated that it should be held at town hall. Council member Tufts felt it better at the mayor's house. It was decided to have it on Friday, December 14 at 4:30 until 7:00.

Mayor Lyerly asked if there was any other business.

At 7:50 p.m. council member VonCanon motioned to have council proceed to closed session pursuant to NCGS 143-318.11 (a)(3) Attorney-Client matters. Council member Draughon seconded. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.

Council returned to open session at 8:14 p.m.

Other Business

There was no other business.

At 8:15 p.m. Council member VonCanon made a motion to adjourn the November meeting. Council member Lecka seconded. All were in favor

Adjourn

The town council meeting adjourned at 8:15 p.m.

Mayor Brenda Lyerly

Steven R. Smith
Finance Officer/Clerk

Approved: December 10, 2012