

BANNER ELK TOWN COUNCIL

**February 12, 2018
MINUTES**

The Banner Elk Town Council met Monday, February 12, 2018 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, Mike Dunn, Charlie VonCanon and Robert Tufts.

Staff present: Town Manager Rick Owen, Cheryl Buchanan, Nancy Owen, Lieutenant Orrie Smith and Attorney Four Eggers.

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting of February 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 January 2018 Town Council Minutes. Council Member Tufts motioned to approve the January 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 if there was a motion to approve the February agenda. Council Member Bolick motioned to approve the February 2018 agenda as written. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Public Comments

Mayor Lyerly called upon Jim Swinkola. Mr. Swinkola reported that the Kiwanis of Banner Elk will be celebrating its 50th anniversary this year. He noted that several events are being planned for this Golden Jubilee year. Banners will be displayed on several of the utility poles in and around the Town. He stated that on Saturday, April 14th at 9:00 a.m., the Kiwanians and community volunteers will be putting together the new playground equipment in the Tate-Evans Park. He noted that breakfast and lunch will be served that day at Holston Camp. Mr. Swinkola reported that the Kiwanis will be donating \$85,000 to the Town during this jubilee year, primarily through organizations dealing with children.

Annexation Request, Old Turnpike Investments, LLC

Mr. Owen reported that at last month's meeting Old Turnpike Investments LLC, the new owner of a 1.037-acre parcel located on Highway 194 across from Elk River Realty requested annexation because the owner would like water and sewer connections from the Town. At the meeting, Council requested that Town Staff certify the petition. Mr. Owen noted that the Staff has certified the petition for annexation. If Council wishes to proceed with the annexation, Council will need to schedule a public hearing. Council Member VonCanon questioned if the owner needs to publicly state that he wants water and sewer connection before he builds a building on the property. Mr. Owen stated the owner wants to be in the Town limits and needs water and sewer in order to build. He noted that David Poore came and looked at the parcel and had concerns about connections. Mr. Poore provided a letter to the property owner with regards to estimated costs (\$35,000) to connect to the Town's system. Mr. Owen reviewed with Council the water line extension and went over the map of the area in discussion. The blue/green line shown on the map is a 2" water line that runs from Silver Springs/Old Turnpike and turns towards the subject property (towards Elk River). By State statutes, regarding water quality, the Town can only run that line 1,000 ft. Currently, the line is at 900+ ft. Mr. Owen noted that in order to extend to the parcel, the Town will request that a section of the extension be increased to a 6" water line for about 500 ft. which will also give the Town fire protection to the area. There was further discussion regarding the Town extending the water line to the pump station, commercial property development and zoning and extension of services. There being no further discussion, Council Member VonCanon motioned to call for a public hearing at next month's meeting. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Rezoning Request, Old Turnpike Investments, LLC

Cheryl Buchanan stated that she is requesting a separate public hearing for the rezoning of the property discussed in Agenda Item #1. She noted that currently the property is zoned R-1. The owner is requesting that it be rezoned commercial for the construction of a commercial office building on the property. Ms. Buchanan reported that Banner Manor Self Storage is zoned commercial and the surrounding properties in this area (Elk River Realty, Steve Lambert's real estate office) are consistent with the Banner Elk Land Use Plan for commercial uses. Council Member Bolick motioned to call for a public hearing at next month's meeting. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Water Leak Adjustment Request

Mr. Owen noted that Deka Tate is requesting a water leak adjustment. He reported that the Town has an ordinance on how to handle leak adjustments for water and sewer and the Town deals with this issue monthly. Ms. Tate had a water leak and approached the Town for an adjustment. However, the adjustment Ms. Tate requested was based on the ordinance prior to the change made in April of 2010. Mr. Owen stated that it used to be that someone could receive adjustments on water and sewer over any amount of time, multiple times in a year. In 2010, Council changed the ordinance to allow multiple sewer adjustments throughout the year and have those adjusted to the average usage. However, the water adjustment had a substantial change. Only one water adjustment was allowed per year and the adjustment was to be half of the water billed over a two-month period. Mr. Owen noted that Ms. Tate's water leaks covered a four-month period and Staff can only adjust for two months. Ms. Tate felt that the Town's bill was still substantial even after the adjustment and wanted to address Council. Ms. Tate reviewed with Council the leaks in the pipes under her rental house, replacing the lines and the costs involved. Council Member VonCanon agreed that Ms. Tate was dealing with extenuating circumstances and that Council

should take this under consideration. Attorney Eggers stated that the Town has an ordinance with an adopted policy on this issue. If Staff is to do something other than what the adopted ordinance policy would be that would require Council action by vote. It could either be on this case or it could be on the ordinance itself as Council sees fit. Attorney Eggers noted that because it is enterprising, Council has a great deal of discretion as to what you believe appropriate based on the circumstances. Following some discussion, Mr. Owen clarified that Ms. Tate is requesting an adjustment based on the ordinance prior to the 2010 change. Council Member Bolick stated that based on the circumstances and the information provided he motioned for the water leak adjustment to \$200 and then look at this ordinance and any revisions needed more closely at another time. Council Member VonCanon seconded the motion. Mr. Owen stated that he would like to make an adjustment to this motion. Since the \$200 is an approximate figure, he asked that the motion be amended to adjust the amount based on the formula that was used prior to 2010 which would assist Staff in getting an exact adjustment figure. Council Member Bolick modified the motion to recalculate the adjustment by the old formula. Council Member VonCanon seconded the motion. All were in favor. No one opposed. There was further discussion regarding the future regarding this ordinance, additional adjustments and resolutions to water leaks and how Council can modify the ordinance. Mr. Owen stated that he would not have made the recommendation made in 2010; too stringent. He looked back on the minutes when this ordinance was changed. Mr. Owen reported that at the March 2010 Council Meeting, the subject was introduced. Council called for a public hearing the following month. Mr. Owen read aloud the March and April 2010 minutes related to this subject. Mr. Owen stated that he will further research on how this ordinance can be remedied and how other towns handle similar situations.

Tax Release

Cheryl Buchanan reported that a payment that was postmarked on time, was received on the day that the late penalty was applied. It is the Town's policy to accept postmarked payments. Ms. Buchanan is requesting Council to release the penalty on the tax bill in the amount of \$3.26. Council Member Tufts motioned to approve the tax release. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Budget Amendment, Playground Equipment

Mr. Owen reported that this Budget Amendment addresses the money received and the expense for the playground equipment in the park. The Town also recognizes the \$18,000 received and contributed by the Kiwanis Club (\$10,000 from the Kiwanis Club of Banner Elk and \$8,000 from the Kiwanis Club of Banner Elk Foundation). Mr. Owen noted that it also recognizes the contribution in the amount of \$9,000 from the Tourism Development Authority. He stated that Council approved of the Town contributing 25% of the cost of this project. Mr. Owen noted that this Budget Amendment covers the total amount of \$36,000 to complete the project. He stated that the Town currently has approximately \$3,000 of funds that has been put into the account *Friends of the Park* for a memorial type project in the park. Mr. Owen noted that these funds would be well spent for this playground project and would help offset part of the \$9,000 that the Town is contributing. Council Member Lecka motioned to approve the Budget Amendment. Council Member Tufts seconded the motion. All were in favor. No one opposed. Mr. Owen noted that the build date is Saturday, April 14th and it is a community-built project. He asked the supplier of the playground equipment to provide the Town with an outline of the manpower needed and they will have a supervisor on site during the construction in order that the project will be organized and well laid out.

Historic Banner Elk School Project Updates

Mr. Owen reported that it is the Manger's intent to enter into new leases with the Town's tenants. He noted that the Manger can lease Town property for up to one year. The leases for Common Grounds, Ensemble Stage and Carolina Mountain Life magazine are up for renewal in February and unless Council has any question or feedback, he will proceed with the new leases

Council Member Bolick reported that the renovation and expansion work to the Artist's Gallery is going well. A lot of progress has been made in rooms number 4 and 5.

Council Member Bolick presented Mayor Lyerly with a "souvenir" nail that was used in holding up the old gutters on the school. The new gutters and downspouts have been installed; all done through the help of a donor.

Council Member Bolick stated that Nancy Owen will be handling the scheduling of anyone wanting to rent or reserve the newly renovated conference and meeting rooms.

Discuss Dates for Budget Workshops

Mr. Owen stated that last year we had a goal/planning retreat and two budget workshops. He would like Council's input in scheduling these workshops in preparation for next years' budget. After some discussion Council Members agreed that the planning workshop will be held on Wednesday, March 21st at 6:00 p.m. The budget workshops will be held on May 23rd and June 27th at 6:00 p.m.

Manager's Update

Mr. Owen distributed the police report and noted that included in Council Member's packets are the financial summary report for seven months ending 1/31/18, planning, zoning, and tax collection reports. Also attached is a draft copy of the February 5, 2018 Planning Board Meeting minutes and a copy of the December 7, 2017 High Country ABC Board Meeting Minutes. Mr. Owen noted that for Council's information, Cheryl Buchanan included an Advertisement of Tax Liens on Real Property. The report is presented to Town Council in February for advertisement in the newspapers in March. He stated that if there were any questions regarding these reports to let him or the staff know.

Mr. Owen reported that the Town has a lot for sale in Crooked Creek which is listed on govdeals.com. The Town has received a couple of bids and has received telephone calls with inquiries.

Mr. Owen noted that last month the Town experienced a water leak at the main line which was reported at last month's Council meeting. The response time and the assistance received from staff, local municipalities and NC Rural Water was very good.

Mr. Owen stated that last year the Town started a Capital Improvement Plan. He noted that he drew up a spreadsheet listing all of the Town's proposed projects. One of the projects relates to the clarifier motor/drive shaft portion of the sewer treatment plant. Mr. Owen reported that it needs to be replaced (almost 30 years old). He noted that the Town's long-term goal is to have a second clarifier at the plant. Replacement of the drive is critical, and construction of a new clarifier is long term. Mr. Owen distributed a handout which reflects the work involved and which will be discussed at next month's Council's meeting as an agenda item. He noted that his intention is to begin the work this summer. Mr. Owen reported that the cost for the repair work, bringing in a temporary clarifier, etc. is approximately \$100,000.

Mr. Owen reported that another item on the Capital Improvement Plan "wish list" was to replace the generator at the Elk River lift station. When the lift station was updated the pumps in the station were upsized and the generator which is located at the station was not updated at the time. The generator will only run one of the two pumps. Mr. Owen reported that the generator failed last Friday. The service company came out and found that the stator rotor bearings and control board went out. They noted that the root cause were rodents inhabiting the stator. It's been a problem in the past and deterrents were used in hopes of eliminating the problem. He noted that a portable generator was also placed in the station. Mr. Owen reported that he requested quotes to repair and to replace the generator. The cost to repair would be \$20,500 and the cost for a new generator which would operate both pumps and come with safety measures built in would be \$22,400. Council Member Bolick recommended getting a price for a larger generator (larger than 30K) for future expansion projects.

Mr. Owen stated that regarding the Corner on Main project, the Town is waiting for the electrician to install the lighting for the flagpole in order to raise the 6 x 10 flag.

Mr. Owen distributed the rendering of the Corner on Main project. He noted that the Town is fairly confident in securing the funding for the colonnade, which is the covered sitting area. Mr. Owen went over the sketches of the covered colonnade and the heavy timber submission with stone wall screening options. He went over the design and size of the colonnade. He noted that Council has previously approved the rendering and the concept behind this project. There was discussion regarding the design and layout. Mr. Owen asked Council's approval for the Town to pay for the 5 ft. brick walkway. Council Members approved and noted that the design looks great.

Mayor Lyerly thanked everyone for attending and asked for a motion to go into closed session.

At 7:20 p.m. Council Member Dunn motioned for Council to proceed to closed session pursuant to NCGS 143-318.11. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Council returned to open session at 7:37 p.m.

There being no further business, at 7:37 p.m. Council Member Tufts motioned to adjourn the February 2018 Town Council meeting. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Adjourn

The Town Council meeting adjourned at 7:37 p.m.

Mayor Brenda Lyerly

Attested

Approved: March 12, 2018