

BANNER ELK TOWN COUNCIL
January 14, 2013
MINUTES

The Banner Elk Town Council met Monday January 14, 2013 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

Staff present: Town Manager Rick Owen, Chief Bill Burleson, Lt. Byron Clawson, Cheryl Buchanan, Steve Smith and Town Attorney Four Eggers

Others present: Rebecca Bolick, Ted Silver, Carol Silver and other interested parties.

Call Meeting to Order

At 6:00 p.m. Mayor Brenda Lyerly called the regular monthly meeting for January 2013 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.

Approval of the Minutes

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

Approval of the Stated Agenda

Mayor Lyerly reported to council that an additional item needed to be added to the January 2013 agenda: Resolution Opposing Taking of Water Systems. Council member Lecka made a motion to add item #8 to the January 2013 agenda. Council member Draughon seconded the motion. The amended agenda passed with all in favor.

Public Comments

There were no public comments.

Mayor Lyerly noted that she had two items to report. She received a Christmas card from Lees-McRae College signed by Barry and Deb addressed to the town. Mr. Owen noted that the town staff received one also.

She also shared with everyone a letter she received from a creative young girl who attends Rankin Elementary School in Mt. Holly. The girl wrote about places of interest in and around Banner Elk, designed a bumper sticker and created a new slogan for Banner Elk “the place you just can’t stay away from”. She noted that she will show it to the chamber of commerce.

ABC Store Travel Policy

Mr. Owen handed out the latest version of the travel policy. He noted that the ABC Board met on Thursday afternoon. They had in hand council’s recommendations and comments regarding the policy. He also told council that Donna Dicks was present to answer any questions and to help facilitate any conversation regarding this subject. Mayor Lyerly asked if everyone was happy with the policy. Council member Bolick questioned item number two, “An over night stay is defined as attendance at a meeting beyond a 50 mile radius from the ABC store”. He asked that if you are past the 50 mile, what determines where you stay or where you don’t stay depending upon what time the meeting is over. Ms. Dicks responded that her understanding was that if a meeting ends at 10:00 p.m., one wouldn’t drive home. She noted that if council wants more clarification in the policy, they need to let her know. Council member Bolick stated that it should be noted in writing. Ms. Dicks stated that the bottom line is we have a line item budget number which we are not allowed to go over and we assume people will be careful to adhere to the policy. She noted that there isn’t much travel involved among the board members, that the only person doing any travel is Sara Brewer. Ms. Dicks stated that the board hasn’t had any real issues with this item, but if council feels more comfortable inserting more clarification to this part of the policy then it should be added. Mayor Lyerly thanked Ms. Dicks for her input. Mr. Owen noted that if council is comfortable with council member Bolick’s recommendation and wants to approve it based on his recommendation, then it would become closer to getting approved. Mayor Lyerly asked if there were any further questions on the travel policy. Council member VonCanon asked if council needed to make a motion. Mayor Lyerly said that we need a motion to accept the policy with the change or not. Mr. Eggers noted that if council wanted to make a change to the policy a time frame needed to be specified. Ms. Dicks noted that the ABC Board will be meeting on the second Thursday of February which would fall after council’s meeting. Mr. Eggers stated that the board would want council to approve the policy based on the correct verbiage for final approval. He also suggested having a potential special meeting. Mayor Lyerly asked Ms. Dicks if there was a rush on having it approved. She stated that the ABC Commission in Raleigh is anxious to have this completed. Mr. Owen stated that if the ABC Board along with Sara could come to a consensus as far as the wording and get it to us prior to council’s next meeting that would be good. Council member Tufts questioned item number three. He asked why the wording breakfast, lunch and dinner was removed from the original policy. Ms. Dicks stated that the board didn’t think it necessary. They just wanted it to be a daily rate as opposed to breaking it down between three meals which allowed more flexibility for the individual. She also noted that it was based on the receipts. Mayor Lyerly asked if there were any further questions. No action was taken at this meeting.

Collegiate Mountain Bike Nationals

Mr. Owen reported to council that Doug Owen requested to be on council’s agenda a few months ago to discuss the upcoming October event and the activities associated with the event. Apparently they are out of town and will not be on this evening’s agenda. No action was taken.

Resolution Supporting CWMTF

Mr. Owen stated to council that the Clean Water Management Trust Fund has asked the town to pass this resolution. He noted that their funding has dropped drastically over the past couple of years so they have asked support from communities that have received funds in the past or potentially receive funds. Banner Elk has received three grants from this fund amounting to over \$400,000. He stated that this resolution would show our support of their program which asks the state to continue to fund it. Mayor Lyerly asked if there were any questions or if a motion was at hand. Council member Bolick made a motion to support the resolution. Council member VonCanon seconded. All were in favor. No one opposed.

Fencing – Ordinance Amendment

Cheryl Buchanan reported that the planning board discussed the placement of fences and the distance they should be from a right of way or easement. She noted that the planning board wants to adopt an addition to the wording to what is currently stated in Section 501.9 in the ordinance requiring that fencing higher than six feet would be required to follow the setback in Section 309. Ms. Buchanan asked that the word “chart” be removed and replaced with the words “in accordance”. Mr. Owen stated that we are asking council for a public hearing on this ordinance amendment at their next meeting. Mayor Lyerly asked if there were any questions. Council member Tufts made a motion to call for a public hearing at February’s town council meeting. Council member Lecka seconded. All were in favor. No one opposed.

Political Signs – Ordinance Amendment

Cheryl Buchanan reported that in 2011 changes were made to the general statutes regarding political signs. The planning board agreed that the town’s ordinance needs to be revised to meet the state’s statute changes. She noted the proposed additions and deletions to Section 607 (12) Exempt Signs: signs must be three feet from the edge of the pavement along with a time period for the sign to be displayed. The planning board is asking council to call for a public hearing. Council member Tufts made a motion to call for a public hearing at February’s meeting. Council member Draughon seconded. All were in favor. No one opposed.

Section 923 (Breweries) – Ordinance Amendment

Cheryl Buchanan noted that this is a new section to the ordinance. The last section that was approved was Section 922 Incubators. The planning board received a request for a micro-brewery to come into the incubator as a new business. The board decided to include language that would include various classifications of breweries as well as wineries and distilleries which would be Section 923. Ms. Buchanan stated there are a few minor changes to the wording following her discussion with Mr. Eggers. She noted that in 2(d) we will change the words “is essential” to “for all materials”. In 2(g) much of the wording will be revised and in the last sentence the word “prevent” will be removed and the phrase “protect against fire and explosion”. Ms. Buchanan stated that the board will receive the revised ordinance prior to the public hearing. Council member Tufts asked why M-E only have microbrewery as a conditional use instead of including all the others. Ms. Buchanan noted that it was because of the request to put it into the incubator. Mayor Lyerly asked if there was a motion. Council member Tufts asked if the changes would be reflected before the public hearing and meeting. Ms. Buchanan said that they

would. Council member Bolick made a motion to call for a public hearing on Section 923 at February's meeting. Council member VonCanon seconded. All were in favor. No one opposed.

Tree Protection – Ordinance Amendment

Cheryl Buchanan reported that the planning board has been discussing the tree ordinance and areas that it can and cannot cover. She presented a tree preservation overlay map. The planning board agreed that it would be nearly impossible to regulate the ETJ. She discussed with Mr. Eggers the areas that would apply to the ordinance. It would apply to the shaded areas within the corporate limits of Banner Elk noted on the map. There will be a resolution introduced at next month's meeting which will repeal a small section of the existing ordinance and replace it with a more detailed section which will offer more protection for our trees. Council member Tufts stated that it was a long time coming and asked how it will be implemented and enforced. Ms. Buchanan stated that she will oversee the ordinance. Mr. Eggers noted that by state statute power companies have the right to cut their right-of-ways however they choose. The town can only ask them nicely not to mutilate the trees. Council member Draughon asked if the town will be removing the stump located near the Presbyterian Church. Mr. Owen stated that it is on Lees-McRae property. The town was kind enough to remove the tree following a storm. Council member Bolick asked how the town will monitor this ordinance and let the citizens know it exists. Ms. Buchanan stated that they may advertise this in the paper or note it on the water bills. She noted that she receives several calls asking advice on trees. Mr. Owen noted that once it is presented at the public hearing the town can set a start date for it to give the town time to promote this ordinance and get the information out to all citizens. Council member Tufts asked if there was any concern for Section 710.4 regarding companies whose business it is to cut down trees. Ms. Buchanan didn't foresee any problem. Mayor Lyerly asked if there was a motion. Council member VonCanon made a motion to call for a public hearing for the tree protection ordinance at February's meeting. Council member Bolick seconded. All were in favor. No one opposed.

Resolution Opposing Taking of Water Systems

Mayor Lyerly introduced the added agenda item which is a resolution that opposes legislation that provides for the forced taking of a municipal water system. She noted that this is something that has to do with a disagreement between Asheville and Buncombe County. We are being asked to sign this resolution opposing the legislature getting involved. Mr. Owen stated that one copy before them is the resolution and the other is some background information. He apologized for not having it in their packets beforehand and he thought it was important to be presented at this meeting rather than waiting until next month. Council member Bullock asked why they are doing this. Mr. Owen stated that there may be several opinions. One is that it is good for the county, good for development and good for economic growth. Another opinion is that it could be financially driven. It is not due to operations, but Asheville may not want to extend its system and this will be a way it could be forced to. Mayor Lyerly asked if there was a motion. Council member Tufts made a motion to support this resolution. Council member Draughon seconded. All were in favor. No one opposed.

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 and the yearly report from the planning board.

Mr. Owen reported that the roof on the police department's building has been replaced with a metal roof. It turned out very nice and the chief is pleased with it and with the contractor who installed it. He did a good job.

Mr. Owen reported that Charter Communications has notified the town of its yearly rate increase. Basic cable has gone up \$1.45.

Mr. Owen noted that the council table is in place. He stated that if anyone has any comments to let him know. The contractor will be back on Tuesday to remedy a couple of things. Council member VonCanon complimented Rick in putting the council chamber all together along with the contractor and Bob Mann for a job well done.

Mr. Owen reported that the town has issued a notice to proceed on the park renovation project. He recalled that the town pulled some items out of the project with a change order that the staff would do. The staff has substantially completed these items. The contractor will proceed as soon as the weather permits. The restroom renovation is another project that we hope the town staff will be able to take on as well to help curb costs.

Mr. Owen reported to council that the town is still looking for one more member to serve on the Preserve American Commission. We have received one applicant. He wants to remind council that we are looking for members. The town has just reinstated the board and noted that we could make it an agenda item at another meeting.

Mr. Owen told council that the TVA has donated \$1,500 toward the town's park project.

Mr. Owen stated that Brett Gardella contacted him regarding a meeting on Friday with someone from out of state who is interested in bringing some economic development into Avery County. This person is hoping to meet with elected officials. As soon as he receives an email from Brett Gardella he will forward it to council members. The meeting will be held from 10:00 until 12:00 in the commissioner's room if anyone is interested in attending.

Mr. Owen also told council that he is heading to Chapel Hill to complete his class and will be out of the office for the remainder of the week. He and Allen will be attending the NCLM Goals Conference the following week.

Mayor Lyerly asked if there was any other business.

At 6:48 p.m. council member Von Canon motioned to have council proceed to closed session pursuant to NCGS 143-318.11 (a)(3) Attorney-Client matters. Council member Lecka seconded. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.

Council returned to open session at 7:00 p.m.

Other Business

Council member Tufts asked what the big red sign at the picnic shelter is that reads “station”. Mayor Lyerly stated that it was from the Christmas party in the park where the train stopped and they served cider and cookies. Mr. Owen noted that the sign was still there and that the Chamber put it up along with other lighting, etc. He will be happy to have it taken down.

Council member Tufts also reported that he was told that Lees-McRae will be serving alcohol at Wilys beginning next year for students. Council member VonCanon asked what they would be serving and council member Tufts stated beer and wine, on premises only. Mr. Owen reported that the police department would receive a request for information from Lees-McRae if they apply for a permit. Mr. Owen asked council if they wanted him to approach President Buxton on the matter. Council member Tufts stated that there was no need to ask but that he wanted to let everyone know that the college is having alcohol training for employees to be able to apply for a permit.

Mayor Lyerly reported that at the state inaugural parade there were a lot of horses and there was someone with a scooper behind every one of the horses and she stated that the town needs to remember this for all future parades held in Banner Elk.

Mr. Owen noted that council will be hearing more about horses in the future. He stated that the town presently has two in town. He said that he receives telephone calls regarding horse droppings and feels that it is not the responsibility of public works to be cleaning up after them. Horses can be on the state roads but he will do further checking to see if any rules apply to cleaning up. Council member Bolick noted that he has been asked by several people why we allow horses in town. Council member Tufts asked if there was anything in our ordinance that required picking up after dogs and if so why can't it be stated to include all pets. Mr. Owen stated that we have a policy for our park area, but will read further and will check into it. Mr. Eggers stated that he doesn't feel there is anything written in the town's current ordinance that prohibits horses or addresses picking up after your animal. Mr. Owen stated that there is a section about controlling your dog and using a leash, but is not certain of the wording. Mr. Owen will do more research on this subject and will get it to council.

Council member Draughon wanted to let council know that Martha Beasley called her and told of her concern regarding where the greenway ends. She stated that it is an abrupt stop that there is no sign stating that the Banner Elk Greenway ends there and you are entering private property. Ms. Beasley asked Ms. Draughon to mention her concern to council. Council member Draughon told her that she needs to come to a council meeting to voice her concern. She said that people

are walking through the back of her property. Mayor Lyerly reported that when she walked it she knew it ended. Council member Tufts noted that during the winter time it is hard to tell

where it ends with the weeds all being down. Mr. Owen said that town will be happy to work on a solution.

At 7:15 p.m. Council member Lecka made a motion to adjourn the January meeting. Council member Draughon seconded. All were in favor

Adjourn

The town council meeting adjourned at 7:15 p.m.

Mayor Brenda Lyerly

Steven R. Smith
Finance Officer/Clerk

Approved: February 11, 2013