

BANNER ELK TOWN COUNCIL

**March 14, 2016
MINUTES**

The Banner Elk Town Council met Monday, March 14, 2016 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, Cheryl Buchanan and Attorney Four Eggers.

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting March 2016 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 February 8, 2016 Town Council Minutes. Council Member VonCanon motioned to approve the February 2016 minutes as submitted. Council Member Bolick seconded the motion. All were in favor. No one opposed.

Approval of the Stated Agenda

Mayor Lyerly reported that one item needed to be added to the agenda. She noted that Item #8 will be added to read *Advertisement for Tax Lien*. Mayor Lyerly asked for a motion. Council Member Dunn motioned to approve the March agenda to include the addition of Item #8. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Public Comments

Jim Swinkola addressed Council and the public. He reported that he is here to report on three items relating to the Kiwanis Club of Banner Elk. Mr. Swinkola noted that the Avery High Key Club was in Durham for the District Convention. Approximately 241 clubs were represented from the states of North and South Carolina. He reported that Avery High Key Club returned with several awards and showed them to those attending. Mr. Swinkola reported that Kiwanis One Day will be held on April 2, 2016. He noted that this year there are two groups. One group will be working at the Newland Library and the other will be working at the Banner Elk Elementary School. He stated that volunteers are needed. Mr. Swinkola also reported that the Kiwanis formed a foundation in 2010. This foundation has been revitalized and will work on acquiring private funds for the purchase of playground equipment for 2-6 year olds at the Tate-Evans Park and acquiring books for the Reading is Fundamental program. Council Member VonCanon thanked the Kiwanis for all their work for the community. Mayor Lyerly congratulated the Avery Key Club and noted that the Town is very proud of them.

Mayor Lyerly asked the Boy Scout Troop 807 attending this evening's meeting to introduce themselves. She welcomed and thanked them for coming.

Audit Presentation – Misty Watson, CPA, PA

Misty Watson addressed Council thanking them for allowing her to complete the Town's audit this fiscal year along with thanking the staff for their assistance. Ms. Watson highlighted the financial activities of the Town for the fiscal year ending June 30, 2015. She reported that the total assets of the Town exceeded its liabilities by \$7,455,618. The Town's unassigned fund balance for the General Fund for the year was \$1,121,639, which represents 44% of the total General Fund expenditures. The total net position of the Town increased by \$605,364 and the property tax collection rate was 96.77% which she noted was pretty much on target compared to the State's average rate of 97%. Ms. Watson stated that the Town incurred new debt this year for the General Fund for the Historic Banner Elk School which was \$1,000,000, the debt decrease for principal payments for the General Fund was \$59,785 and the proprietary fund decreased for principal payment by \$50,000. Ms. Watson stated that the total outstanding debt at the end of the fiscal year was approximately \$1.8 million. She reported that the Town acquired new assets: the Historic Banner Elk School, two government vehicles, government equipment and completing infrastructure projects. Ms. Watson noted that the audit went well and the Town looks good. She told Council that if they had any questions, they should feel free to call her or email her. Mayor Lyerly thanked Misty for her presentation.

Rezoning Request, Call for Public Hearing

Cheryl Buchanan reported that this request comes from Banner Elk Presbyterian Church on College Drive. Ms. Buchanan stated that the church purchased the lot across the street that formerly belonged to Carmen Guy. The church is in need of additional parking and would like to use portions of the lot for parking. She noted that the property is currently zoned R-2, which is residential and does not allow parking lots. A rezoning to the new Civic Zoning District would allow for the parking and suits the area. The church does not plan on clear cutting the lot nor cutting down all the trees. A future plan for the space, in addition to the parking area, is a greenspace area. Ms. Buchanan recommends that Council call for a public hearing at April's meeting to consider rezoning the lot at the corner of Banner Road and College Drive from R-2 to the Civic Zoning District (CZD). Council Member Tufts asked if the lot has egress to the roads. Ms. Buchanan noted that the lot would come out onto the parking lot at Lees-McRae in which there is an agreement between the school and church. Mr. Owen stated that the church will provide the Town with a plan upon which the Town will be given time to approve. Council Member VonCanon asked about future implications on changing the property over from R-2 to CZD. Could only a portion of the parcel be rezoned? Attorney Eggers stated that you can have separate different zoning districts on a parcel of land, but setbacks will grow in front of the zoning line, not necessarily the property line. Mr. Owen noted that what Council is considering this evening is the rezoning of the property and it will be made available for any use in that zoning district. The rezoning is not based on a possible parking lot. Mayor Lyerly asked if Council had a motion to set a public hearing at next month's meeting. Council Member Tufts motioned to call for a public hearing at April's meeting. Council Member Dunn seconded. All were in favor. No one opposed.

Discussion of Heritage Overlay versus Historic Overlay

Cheryl Buchanan reported that she researched what the Town now calls the Heritage Overlay District. She noted that we can control zoning in this district, but not as strict if it were called an Historic Overlay District. Properties that the Town identifies as “historic” (anything built before 1950) would require a review by a committee before any work can be done to the property (i.e. changing window types, additions/remodeling). Ms. Buchanan stated that a set of guidelines would have to be established. The Town could also establish a 360-day delay process from tearing down an historic property. She noted other advantages to an Historic Overlay District: tax credits, tax exempt status for designated properties, etc. However, the Town could lose tax revenue. Attorney Eggers talked about the rights of the Town to preserve properties. The Town would have an additional “tool” to require someone to wait before tearing down a structure, but the statutes only say you can delay it for the purpose of trying to negotiate with the property owner. After the time is up, they then have the right to proceed. This “tool” is not a magic bullet to be able to preserve all structures. Discussions among Council Members revolved around designating historic buildings, the overlay area, additional restrictions and regulations placed on Town property owners being in a Historic Overlay, redefining and improving the present Heritage Overlay District, etc. Council Members agreed in keeping with the Town’s existing Heritage Overlay District.

Toe River Regional Hazard Mitigation Plan

Mr. Owen reported that the Toe River Regional Hazard Mitigation Plan is an update of a plan that was originally adopted in 2011. Avery, McDowell, Mitchell and Yancey Counties got together and applied for a grant, which at the time was a first-ever regional hazard mitigation plan in the State of North Carolina. He noted that it has to be updated every five years. Mr. Owen stated that it is a 417-page document and can be viewed at the link he emailed Council Members. It reports on items that Banner Elk specifically has done relating to hazard mitigation; mostly in regards to stormwater. Mr. Owen reported that the North Carolina Division of Emergency Management and FEMA already approved the plan. He stated that he would like Council to pass a resolution supporting the updated document. Council Member VonCanon motioned to approve the resolution adopting the updated plan. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Historic Banner Elk School Project Updates

Mr. Owen reported that April 6th is the date several Town representatives will visit the NC Museum of Natural Science. He noted that if any Council Members are interested in going or would like to be involved to let him know. The plan is to tour the museum and meet with museum officials. It will be a facts finding mission to see if having a regional museum located in the Historical Banner Elk School is feasible.

Mr. Owen reported that currently the Farmers’ Market has no contract with the Town and no fees have been paid to the Town for the use of the property in front of the school. He noted that their Board will be meeting to determine the best way to move forward with the Town. Mr. Owen stated that all parties involved agree that a written agreement is needed spelling out the terms of their use of the property. He noted that they had a 3-year agreement with Avery County in which they paid the County \$200 a year to use the property, which was prior to the County

selling it to Banner Elk. Mr. Owen stated that he will keep Council abreast with any new developments.

Council Member Bolick reported that on March 2nd the Town had a meeting with Mayland Community College and the Grant Committee regarding renovations to the back building and the possibility of applying for grant money. They discussed renovations to the building in back of the school and looked at all existing issues such as the repair and/or replacement of existing siding, the replacement of windows, adding a metal roof, repair walkways, adding gutters, downspouts and French drains, etc. Mr. Bolick summarized their discussion in regards to the inside renovations to that building specifically focusing on Rooms 22, 23, 24 and 25 (kitchen and cafeteria). He reported that they are looking at applying for grant money to 6-8 different foundations and are optimistic in obtaining some grant money in order to renovate the back building

Council Member Bolick reported that a private donor is offering the Town \$25,000 if the Town would match/raise \$25,000. The donor stated that it has to be “new” money not Town money and it has to be applied to the debt. Council Members discussed the offer, ways to raise the money and agreed that it was a wonderful opportunity.

Council Member Bolick stated that the second annual golf tournament will be held on September 12th at the Elk River Club. He noted that he is working on scheduling a meeting in April to discuss this year’s event and set up committees for addressing issues as sponsors, players, silent auction, food, etc.

Council Member Bolick handed out the updated Town Map and noted that they will be posted in the Town’s kiosks, at Lees-McCrae College and will be available for distribution at the Chamber of Commerce and at Town Hall.

Mr. Owen stated that as previously reported the golf tournament will be held on September 12th which is also the scheduled date for a Council meeting. Since there are Council Members supporting this event, we may need to consider moving the meeting to a later date.

Mr. Owen stated that Mayland Community College is conducting classes at their spaces in the Historic Banner Elk School.

Mr. Owen wanted Council Members to be made aware that a grant has already been applied for through the Friends of the Historic Banner Elk School for improvements to the Book Exchange. He noted that as Town Manager he wanted to make sure Council was informed of its submission.

Tourism Development Authority

Council Member Dunn reported that the TDA’s charter requires that one member on the board be a representative from Lees-McRae College. He noted that the college is proposing the appointment of Tanya Philyaw, LMC’s Conference and Event Manager, and is asking Council’s approval. Mayor Lyerly asked if he would like to make a motion. Council Member Dunn motioned to appoint Tanya Philyaw as a board member to the TDA. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Budget Amendment

Mr. Owen reported that this budget amendment will come out of the Special Police Fund. This fund is set up for expenses related to law enforcement activities. Primarily in the past it was used for the Drug Task Force. Mr. Owen noted that he and Chief Clawson are requesting Council to approve a budget amendment to move funds out of the Special Police Fund Reserve into the operating budget. The funds will be spent for Capital Outlay to purchase equipment. Council Member Dunn motioned to approve Budget Amendment #20160314 as stated. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Advertisement for Tax Lien

Cheryl Buchanan reported that the Town has notified delinquent tax payers. They are given a 30-day notice to pay. Per State Statutes the tax collector is given authority to prepare a report of delinquent taxes on real property and if not paid within the 30-day period, their names appear in the local papers. She noted that the advertisement makes it an automatic lien on the property. Ms. Buchanan recommends that Council give her permission to advertise. Council Member VonCanon motioned to approve advertising the stated liens. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Manager's Update

Mr. Owen reported that included in Council Member's packet are the police report, planning, zoning and tax collection report. Also attached is a draft copy of the March 2016 Planning Board Meeting Minutes and January 2016 High Country ABC Board Meeting Minutes. He noted that included in their packets is a Financial Summary Report for 8 months ending February 29, 2016. Mr. Owen noted that if there were any questions regarding these reports to let him or staff know.

Mr. Owen reported on the sidewalk that is being designed from the caboose to the Mill Pond. He noted that a lot of survey work has been completed and the Town will meet on Tuesday, March 15th with DOT and the consultant to discuss the project and crosswalk options.

Mr. Owen stated that the High Country ABC Store presented the Town with a check in the amount of \$5,000. This is in addition to the yearly allocation the Town receives from the store. The High Country ABC Board felt that they had a better than anticipated year so provided each of the three towns having ownership in the store an additional \$5,000.

Council Member VonCanon asked when the ethics training class will be held. Mr. Owen stated that he wasn't sure when it will be made available on line but will look into it.

At 7:30 p.m. Council Member Tufts made a motion for Council to proceed to closed session pursuant to NCGS 143-318.11. Council Member Dunn seconded. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.

Council returned to open session at 8:20 p.m.

Other Business

Mayor Lyerly stated that we need a motion to approve a budget amendment to move \$20,000 out of the General Fund Reserve to the Department 410 – Governing Body for Council Special Projects. Council Member Tufts motioned to approve the budget amendment. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Mr. Owen reported on a piece of property located across from Flannigan’s beside the elementary school. A gentleman purchased the property from Avery County. It was originally attached to the parcel the elementary school is on. Avery County requested annexation from the Town for the elementary school and also requested that particular parcel be cut out of the annexation. Now that gentleman owns a parcel of land that is not in Town limits and not in the ETJ. Mr. Owen noted that the gentleman is constructing a building on the property. The building/property is not covered by any of the Town’s zoning ordinances or taxation. Mr. Owen stated that he contacted the Health Department when he began construction. The property has access to water and sewer, but it does not have Town water or sewer. The Health Department has approved a septic system for 200-400 gallons a day and a well on the parcel. Mr. Owen reported that he has had several meetings with the new owner and the Health Department. Several issues exist with regards to the size of the parcel, placement of septic tank, water lines and placement of the well. Mr. Owen reported that he and Attorney Eggers are discussing getting this parcel into the Town limits. Council Members discussed the situation and it was decided that Mr. Owen will proceed with pursuing getting that parcel into the Town limits and onto Town water and sewer.

There being no further business, at 8:30 p.m. Council Member Lecka motioned to adjourn the March 2016 Town Council meeting. Council Member VonCanon seconded the motion. All were in favor.

Adjourn

The Town Council meeting adjourned at 8:30 p.m.

Mayor Brenda Lyerly

Attested

Approved: April 11, 2016