

## **BANNER ELK TOWN COUNCIL**

### **May 12, 2014 MINUTES**

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

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

Others present: Rebecca Bolick, Penny VonCanon, Mari-liis Smyth, Jim Swinkola, David Conrad, State Representative Josh Dobson, Ted Silver, Jamie Shell and other interested parties.

#### **Call Meeting to Order**

At 6:00 p.m. Mayor Brenda Lyerly called the regular monthly meeting for May 2014 to order.

#### **Pledge of Allegiance**

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

#### **Invocation**

Council member Bolick opened the meeting with prayer.

#### **Public Hearing – Proposed Zoning Ordinance Amendments**

Mayor Lyerly opened the public hearing at 6:02 p.m. Cheryl Buchanan reported that following last month's town council meeting, two copies of the proposed changes were made available for the public to review in the lobby of town hall. She noted that she received no comments or questions regarding the changes and that the town is ready to move forward unless there were any questions or comments. Mayor Lyerly asked if anyone in the audience or if council members had any questions or comments. There being no comments or questions, Mayor Lyerly closed the public hearing at 6:05 p.m.

#### **Approval of the Minutes**

Mayor Lyerly asked council for a motion to approve the April 2014 minutes. Council member Tufts motioned to approve the minutes as written. Council member Bolick seconded the motion. The April 2014 minutes were approved with all in favor and no one opposed.

#### **Approval of the Stated Agenda**

Mayor Lyerly reported that there is a change to the agenda. She noted that Rep. Dobson will be speaking to council regarding the road, Maple Court, at Lees-McRae's nursing school. Mayor Lyerly asked council for a motion to amend the agenda adding this as Item #1. Council member

VonCanon motioned to amend the agenda to include the addition. Council member Tufts seconded. All were in favor. No one opposed.

### **Public Comments**

Mayor Lyerly called upon Jim Swinkola. Mr. Swinkola, as a representative for the Kiwanis, reported that the 2014 Kiwanis One Day was a success. A group from the Avery County High School Key Club joined with the Kiwanis in cleaning and sprucing up the town cemetery. Council member VonCanon agreed that it was a wonderful day and appreciates the work done by all those involved. Mr. Swinkola also reported that the Kiwanis will have a 2015 One Day. He noted that if council has any specific project that will benefit the community to let him know. He reported that the Kiwanis will have a special meeting on May 27<sup>th</sup> at 11:45. Dr. Buxton will speak regarding China, his experience in China and his hopes for Lees-McRae with institutions in China.

Mayor Lyerly recognized David Conrad. Mr. Conrad stated that he has lived on Beech Mountain for fourteen years and loves Banner Elk. He noted that he, like many others, have issues with Banner Elk and is frustrated about the present and future status of this town. He stated that he is a business and commercial real estate broker and has several businesses that have closed or are for sale. Mr. Conrad thinks that the town has a negative attitude toward business, is against the restrictiveness of the sign ordinance and is against the incubator. He asked council that the town be more pro-business.

### **Request from Rep. Dobson, NCDOT/LMC – Maple Court Improvement**

Representative Dobson thanked council for allowing him to speak at this evening's meeting on such short notice. Mr. Dobson reported that about 1-1/2 months ago he was contacted by Lees-McRae regarding the May School of Nursing Building project. Lees-McRae asked for his assistance in requesting from NCDOT help in funding the street improvements needed to Maple Court. He noted that Lees-McRae needs \$15,000 to widen the road to meet state standards. Mr. Dobson stated that he talked to the Speaker and the NCDOT. He needs a resolution of endorsement from council stating that council supports this road improvement project. He noted that the school of nursing program will do tremendous things for Banner Elk, Avery County and western North Carolina. Mr. Dobson stated that he is asking for council's support. Mayor Lyerly noted that council's members have a copy of the resolution in hand. She stated that Representative Dobson has worked hard in helping Lees-McRae get this money and she stated that we should endorse it. Council member VonCanon motioned to accept the resolution. Council member Tufts seconded the motion. All were in favor. No one opposed. Representative Dobson thanked council and stated that he will keep council updated on the progress of this project.

### **Proposed Zoning Ordinance Amendments**

Mayor Lyerly asked council if they are ready to vote on the Zoning Ordinance Amendments. Council member VonCanon stated that we are ready. The Planning Board has worked very hard on this ordinance to make it easier to understand and follow. Council member Von Canon motioned to approve the proposed Zoning Ordinance Amendments. Council member Dunn seconded the motion. All were in favor. No one opposed.

### **Consider Board Member Appointment – Board of Adjustment**

Mayor Lyerly reported that a person has come forward interested in serving as a member of the Board of Adjustment. She noted that Frederick Schmidt's application and resume are included in council's packets and that Cheryl Buchanan recommends Mr. Schmidt. Mayor Lyerly noted that typically a board member appointment takes two readings. However, the Board of Adjustment will be meeting soon and the board asks that we waive the second reading and approve this appointment. Mayor Lyerly asked if there is a motion to waive the second reading and approve the appointment of Frederick Schmidt. Council member Dunn motioned to approve both. Council member Lecka seconded the motion. All were in favor. No one opposed.

### **ABC Store Travel Policy**

Mr. Owen reported that the attached High Country ABC Board Travel Policy needs to be approved each fiscal year. No changes have been made since council adopted it the last two years. Mr. Owen recommends that council approve the policy and that included with the motion is that the policy is approved ongoing unless changes are made. This way it will not have to be an agenda item each year. Council member Bolick motioned to approve the travel policy as stated and that it be an ongoing policy unless changes are made. Council member Tufts seconded. All were in favor. No one opposed.

### **Resolution Approving Loan Financing**

Steve Smith reported that at last month's meeting staff asked council to approve the financing of the Dogwood Road Stormwater Project and the Bridge Painting Project. We asked council to approve the two loans and that they be consolidated into one to save some money. The loan is for \$201,200 at 2.28% for 7 years. Mr. Smith noted that BB&T is requesting that council pass a new, single resolution indicating the town's intent to have one loan for both projects. Mr. Eggers noted that the only change is that the collateral secured for this loan will be applied to each other (a cross collateralization). Council member Lecka motioned to approve the resolution and its financing terms. Council member Bolick seconded. All were in favor. No one opposed.

### **Consider Date, Public Input on Comprehensive Transportation Plan**

Mr. Owen reported that the High Country Council of Governments is working with the NCDOT to produce an Avery County Comprehensive Transportation Plan. The committee has done a lot of work, put together a lot of maps along with a mission statement and project statement. He stated that the committee is planning on holding three public input meetings and is requesting one be held in Banner Elk Town Hall. It will be an open house type of meeting. He noted that the staff chose July 29<sup>th</sup> and is requesting approval by council. Council member Tufts asked the time. Mr. Owen noted it will 4:30 until 6:30 p.m. Mayor Lyerly asked if there was a motion to approve that July 29, 2014 at 4:00 p.m. a meeting will be held in Banner Elk Town Hall regarding the Avery County Comprehensive Transportation Plan. Council member VonCanon motioned to approve the meeting date, time and place. Council member Dunn seconded the motion. All were in favor. No one opposed.

## **Review Current Projects**

Mr. Owen stated that he wanted to give council members an update on the progress of three current projects within the town.

1. Mr. Owen reported that the bridge painting project is complete and that it went very well. The paint company came and inspected each bridge after it was painted to verify the thickness of the paint and the coating. The company stated that a thicker coat was actually applied than what is required to meet their warranty standards and that they were very satisfied with the work the contractor did. Mr. Owen stated the company estimates that the town added another 25-30 years to the life of the bridges by having this work done.

2. Park Project. Mr. Owen reported that we are actually getting close to its completion. Remaining items are signs, landscaping, kiosks, installing the fitness equipment, the climbing wall (which has been ordered), picnic tables and other small items. The park shelter has been turned over to the town with a few punch items that need to be completed. Mr. Owen reported that the pavilion restroom renovation is going well. The painting is almost complete, the concrete flooring, installing the fixtures and partitions has yet to be done. Council member Bolick inquired about the landscaping and if the vegetation is established enough to prevent what happened last year with the rain. Mr. Owen stated that staff has re-raked, re-graded, re-seeded several areas along with erosion control. With the spring rains that we have currently experienced, the landscaping is doing well. Derek Goddard agreed with Mr. Owen. He noted that the park is in much better condition than it was last year.

3. Dogwood Road Stormwater Project. Mr. Owen reported that the contractor began working knowing approximately where the water line was located and hit the water line within twenty feet. It is a 6" AC water line. Given the location of the water line we are faced with two scenarios: (1) we can move the water line to the left or, (2) we move the stormwater line to the right. Mr. Owen noted that he and Mr. Goddard discussed both options along with the cost involved. Mr. Owen reported that Mr. Goddard surveyed the right hand side of the road to show a new location for the stormwater if that was the route we would take. He noted that the town is researching the property owners because there will be some easements involved. Mr. Eggers received partial numbers to try to research right of ways for that area when it was brought into town limits. Derek Goddard reported to council that we did evaluate the options. After evaluation the first option, it was determined that moving or relocating the water line could cost in the range of \$60-70,000. The line hasn't given the town any trouble over the years so it would be an expense that may not be necessary in the short term. Mr. Goddard reported that with the second option we could move the stormwater conduit away from the water line and run it down the center of the road and run the water back to the curb to the center of the road, but we have sewer to deal with there and then comes issues of elevation (taking the stormwater conduit under or above the sewer). Mr. Goddard stated that there is a third option which he recommends which is taking our existing plan and moving it over two feet closer to the wooded area. The town would end up with a wider road, but it would be safely away from the water line and the water line would be easily accessible without tearing up any curb. Mr. Goddard noted that this is the proposed solution, but it comes with a change order request which we will have to secure with the general contractor. The additional cost would be \$22,000 (a lump sum to your original contract). Mr. Owen stated to council that it is a big change order to the original project amount of \$120,000, but we can't walk away from this project based on the money that is already invested in the materials for the project. He noted that the town won't have to take a loan out for

the change order that we would take it out of capital reserve. Mr. Owen recommended to council that we move forward with the project provided that the right of way issues, the easement issues are solved (does the town have them out right or will we have to negotiate and work with the property owners to obtain right of way). There are 5 or 6 property owners. Council member VonCanon motioned to approve moving forward with the project contingent on the property owners' easement right of way issues being resolved and the cost no more than \$22,000. Mr. Eggers noted that in addition, we need to determine if we have a right of way along the road or if we have to acquire one in writing for an easement. Council member Bolick seconded the motion. All were in favor. No one opposed.

Council member Lecka stated that work cannot continue until we get the easements. He asked how long it will take to get these easements in place. Mr. Owen noted that a lot depends on what we find. Mr. Eggers' office is looking into it and we are looking into as well. It goes way back. There should be a plat somewhere which shows us where it was when it was developed. We will check with Grindstaff's office. As soon as this information is obtained, we will contact the property owners.

### **Budget Message**

Mr. Owen reported that the yearly budget workshops will take place shortly. He noted that staff will present council members with the proposed budget which will be discussed at the workshops. Mr. Owen handed out the budget message to council and read it aloud to them. Mr. Owen noted he and council have discussed the re-evaluation for some time and the effect it will have on the town. Mr. Owen handed out the budget as it is proposed. He will put together a budget worksheet (showing previous years and year to date totals) which will be discussed at the workshops. We have seen a 22% decrease in property value. Mr. Owen stated that a 12 cent rate increase would be needed to reach revenue neutral. So with the rate increase anyone who lost 22% of their property value will not see an increase in the tax they pay. If one didn't lose 22% in their property value, that person would see an increase in their tax. If one saw a higher decrease than 22%, that person would see a tax savings. Mr. Owen explained the spreadsheet that he prepared which lists current rates, property values, current tax rate, and change in value along with the new tax rate. Currently Banner Elk is looking at a 22% loss so that is what we are basing the rate overall. Avery County provided Mr. Owen a list of areas which the county had subdivided out in categories in their taxing system. He noted that the older areas in town did not drop in value as much as the newer areas. As discussed earlier, the newer home real estate and second home real estate market was inflated due to the market drive. Mr. Owen cited examples. The Highlands, one of the older subdivisions in town, had a 16.21% drop in property value, the Lodges at Elkmont had a 29% drop in property value, the Cottages had a 34% drop, Crooked Creek had a 16% drop, The Farm saw a 29% drop, etc. Land values dropped substantially more than building values. Mr. Owen stated these are the numbers staff is working with. Council member Bolick asked how Mr. Owen came up with the 12 cent increase. He noted that the town levied \$1,049,000 of tax last year and we need to levy the same amount this year. Since the valuation of the property dropped, if we levy the same tax rate against the new value of those properties, we would only bring in \$819,000. There is a difference of \$227,000 if we levy the same rate. Each penny of the tax rate generates \$19,462. 12 additional cents would generate \$233,000. Council member VonCanon expressed his concern of it being enough. Mr. Owen

stated that the increase will cover the current level of services for the town. Mr. Owen stated that these are the concerns that will be discussed at the budget workshops. Council members thanked Mr. Owen for all the work he put into the budget research. Mr. Owen reminded council of the budget workshop dates: May 22<sup>nd</sup> at 5:30 p.m. and June 12<sup>th</sup> at 5:30 p.m.

### **Call for Public Hearing on Budget**

Mayor Lyerly stated that council needs to call for a public hearing on the proposed budget for the fiscal year ending June 30, 2015 at June's meeting. Council member Bolick motioned to call for a public hearing on June 9, 2014. 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 packets were the financial report, police report, planning, zoning and tax collection report. Also included is a copy of the High Country ABC Board Meeting minutes for March 2014. Mr. Owen noted that if there were any questions regarding these reports to let him or staff know.

Mr. Owen reported that on May 17, 2014 at 12:00 until 4:00 p.m. there is an open house/drop by at AC Pride at the old Banner Elk School.

Mr. Owen noted that on June 4, 2014 is Town Hall Day. This is an opportunity for elected officials to visit with their legislators in Raleigh. If any council member would like to attend, the deadline for registration is Friday, May 16<sup>th</sup>. If anyone is interested in attending, let him know.

Mr. Owen stated that he sent council members an email concerning a proposed bill that came up in short session on trees and tree ordinances and removing the ability to have tree ordinances. If anyone is interested in signing a letter, several are being drafted. Mr. Owen noted his concern with this for it would remove any tree protection the town has. Council member Bolick suggested having one letter that all council members can sign.

Mr. Owen reported to council of another event that will be taking place in Banner Elk. There is a bike ride on May 17<sup>th</sup>. It will be starting in Banner Elk (beginning at the mini storage at Silver Springs) at 8:00 a.m., leaves town towards Elk River through the back side of Beech Mountain toward Valle Crucis and back into Banner Elk roughly between 11:00 a.m. and 2:00 p.m. The event is being planned by the gentleman who does Blood, Sweat and Gears. The event hasn't been publicized strictly acting on word of mouth to see how many people would take advantage of it. Mr. Owen noted that there are now up to 800 riders that signed up for the event. This event will require some police involvement (which will be paid for by the event, not the town).

At 7:26 p.m. council member VonCanon motioned for council to proceed to closed session pursuant to NCGS 143-318.11. Council member Bolick seconded. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.  
Council returned to open session at 7:56 p.m.

### **Other Business**

Discussions were held among council members regarding the sign ordinance. Some of the requirements were felt to be a bit strict and perhaps allowances should be made. It was also noted that all signs need to conform to the ordinance by 2014. The way it is set up now, the signs can become very expensive. It was discussed if there was a way to meet the ordinance without the expense.

Mr. Owen asked council if he should bring before the Planning Board an extension to the sign ordinance conformance deadline. If so, we need to let businesses know as soon as possible. Mr. Eggers noted that council could extend the deadline. Mr. Owen stated that he would expect complaints from extending it as well as not extending it.

Mr. Eggers noted that there has to be some reasonable and systematic way in which everyone is treated equally. The ordinance states that October 16, 2014 is the compliance deadline. As far as enforcement, Mr. Eggers stated that per the ordinance, the penalty for not complying is taking the sign down or \$25.00 a day until it comes down.

It was decided to ask the Planning Board to consider the council's concerns at the next Planning Board meeting.

It was further discussed that as we look at ordinances and restrictions, council needs to strongly consider what is best for future businesses, existing businesses and the growth of Banner Elk. However it was felt the reason the town currently has vacant buildings has little to do with the town's ordinances and more to do with the economy.

Parking also became the subject of discussion and the lack of parking available for visitors.

Council member Tufts stated that he discussed this with Mr. Owen and would like to express his interest in getting nice shirts (polo or oxford) with a Banner Elk logo or the words "Banner Elk Town Council" for council and staff.

There being no further business, at 8:35 p.m. council member Lecka motioned to adjourn the May 2014 town council meeting. Council member Tufts seconded the motion. All were in favor.

### **Adjourn**

The town council meeting adjourned at 8:35 p.m.

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Mayor Brenda Lyerly

Approved: June 9, 2014

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Steven R. Smith  
Finance Officer/Clerk