

BANNER ELK TOWN COUNCIL

**May 11, 2015
MINUTES**

The Banner Elk Town Council met Monday, May 11, 2015 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, Chief Byron Clawson, Cheryl Buchanan and Attorney Chris Barnes.

Call Meeting to Order

At 6:00 p.m. Mayor Brenda Lyerly called the regular monthly meeting for May 2015 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.

Public Hearing (Proposed Zoning Ordinance Amendment – Tattoo Parlors)

Mayor Lyerly opened the Public Hearing and introduced Jeff Davis, who wishes to address Council regarding the tattoo parlor issue. Mr. Davis stated that he was principal of High Country Wealth Management at High Country Square. He noted that having a tattoo parlor in High Country Square would be very problematic on several fronts, one of which it would be located across the street from the elementary school entrance and a church. Mr. Davis stated that most of the businesses in the development are professional and a tattoo parlor is not comparable. Banner Elk is noted for being family friendly and this type of business is not consistent with the image the Town portrays. Mayor Lyerly thanked Mr. Davis for his comments.

Ms. Buchanan gave council an overview of the proposed zoning ordinance amendment. She stated that State statutes are very stringent for this type of business and has implemented measures on how they are to operate. There are rules and regulations specified by the Department of Natural Resources and the Environmental Health Department that will require our Health Department to impose guidelines. Ms. Buchanan reported that the Planning Board is requesting that Council allow this tattoo parlor as a permitted use in the C-2, the best fit for this type of business.

Mayor Lyerly asked if anyone else would like to speak in regards to this subject. There being no further comments, Mayor Lyerly closed the Public Hearing at 6:10 p.m.

Approval of the Minutes

Mayor Lyerly asked if there was a motion to approve the April 13, 2015 Town Council meeting minutes. Council Member Bolick stated that he had an amendment to the minutes. On Page 6,

top of page, he asked to add Council Member Lecka's name. He too volunteered to be on the committee. Council Member Dunn motioned to approve the minutes with the amendment. Council Member Tufts 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 May agenda. Council Member Lecka motioned to approve the agenda as written. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Public Comments

Mayor Lyerly introduced Jim Swinkola. Mr. Swinkola, a member of the Kiwanis Club of Banner Elk, thanked everyone who participated in the Kiwanis' One Day Project held on April 11th which focused on the clean-up of the Historic Banner Elk School. He stated that it was a "hay day" for the Kiwanis and for the Town of Banner Elk. Mayor Lyerly thanked Mr. Swinkola and the Kiwanis Club.

Zoning Ordinance Amendment, Tattoo Parlors

Cheryl Buchanan reported that this zoning ordinance amendment is straightforward. She noted that not only does the State have rigorous regulations and guidelines for this type of business but the Town also has in place a strict sign ordinance that will be considered. The Planning Board felt that the C-2 zoning district was the best fit. The Planning Board is not requesting the location of the tattoo parlor to be in High Country Square. The Board is asking Council to consider zoning district C-2 for this specific request and that it will also be added to the Table of Uses. Council Member Tufts asked if other zoning districts were considered. Ms. Buchanan noted there was a request for C-1, but the Planning Board felt that this was the Heritage Overlay District which defines a certain character and it would be best to keep tattoo parlors in C-2. Questions were posed by Council Member Lecka, Council Member Bolick and Council Member Dunn. Ms. Buchanan answered the questions by elaborating on the State statutes, reviewing the C-2 zoning district and discussing the Town's sign ordinance. Attorney Chris Barnes noted that the Town of Banner Elk can regulate the aesthetics of a business, but it can't tell them how to operate the business. Council Member Von Canon asked the applicant, Thomas Bryant, to speak and discuss his plans. Mr. Bryant addressed Council. He noted that he has been in the tattooing business for over 15 years and operated a business on the Carolina coast for 10 years. The best thing he can offer Banner Elk is to employ people to work in a clean, rigid working practice. He stated that he understands the position of the Town which has never had a tattoo parlor, but the industry has grown. Mr. Bryant stated that it will be a family run business and he will go above and beyond to provide the required safety and health regulations imposed by the State. Mayor Lyerly thanked Mr. Bryant. Council Member Lecka noted that he understands the concerns of our citizens, but from a legal standpoint the Town doesn't have an option. Council Member Von Canon motioned to approve the addition of a tattoo parlor as a permitted use in the C-2 Zoning District with the addition of definitions to Section 200. Council Member Lecka seconded. All were in favor. No one opposed.

ABC Store Budget Presentation

Sara Brewer addressed Council. She noted that in Council's packets was a proposed budget for fiscal year 2015-2016 which was also given to Seven Devils and Sugar Mountain. Ms. Brewer stated that the distribution to the 3 towns remains the same as this past year. She also noted that the ABC Board has focused this year on the areas of law enforcement along with alcohol

education in Avery County. Donna Dicks has put a lot of time in working with the school system to get programs started within the two middle schools and the high school. Ms. Brewer stated that 7% of their budget is mandated by State Drug and Alcohol Education. The Budget Hearing will be held on June 11th at 4:00 at her office in the ABC Store. Council Member VonCanon questioned the line item “professional fees” of \$7,119. Ms. Brewer stated the \$7,000 was an expense of our CPA, Bill Combs. Every month he dials into our system and performs bookkeeping and financial reports for the board, checking her numbers and making sure they are staying within their budget. It is basically a backup system of checks and balances. Mayor Lyerly thanked Sara for the report.

Consider Audit Contract

Mr. Owen addressed Council. He noted that Misty Watson has prepared a Contract to Audit Accounts for the Town of Banner Elk. Mr. Eggers has reviewed the contract. The contract price for the Town is \$9,500.00. Mr. Owen stated that there is a separate contract with the TDA which the TDA pays for. He asked Council to approve the contract. Mayor Lyerly asked Council if they had any questions. Council Member Dunn motioned to approve the Contract to Audit Accounts. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Team of 83 Presentation

Council Member Bolick addressed Council and those present at the meeting with a letter entitled *Join the “Team of 83”*. He read the first paragraph which explains that *the Team of 83 is a group of individuals, businesses, clubs, churches and organizations that believe in and support the Historic Banner Elk School project. In the fall of 2014, the Town of Banner Elk signed an agreement with Avery County to purchase the property for \$1,000,000 to be paid over the next twelve years. This breaks down to \$83,333 per year for payment in full. The “Team of 83” provides a straight forward way for the Town to fully own the building and the surrounding five acres. Our commitment to the Historic Banner Elk School project will include a minimum of 83 friends, each pledging \$1,000 per year over the next twelve years. Several folks have expressed interest in joining the “Team of 83” and it is our hope that supporting the school and its future are important to you.* Council Member Bolick stated that the second paragraph explains the history of the Historic Banner Elk School which was built in 1939. He noted that the third paragraph of the letter explains that Mayland Community College has leased several rooms in the back of the old school which opens the door for potential uses and community growth. Council Member Bolick stated that the last paragraph explains how one can get involved and join “Team 83” which is simple; contacting Donna Dicks, Rick Owens or himself. He also noted that there is a Pledge Card. Council Member Bolick stated that already they have had much success in talking with people who are excited about this project. It is a straight forward approach in raising money for our Historic Banner Elk School. We are asking for Council’s approval and support and would like Council’s permission to insert the Donor Letter and Pledge Card in the May water bills. Ms. Donna Dicks stated that we feel it is an easy concept for folks to understand and is hopeful we will have a wonderful response. Mayor Lyerly and Council Members agreed that “Team of 83” was a great idea.

Golf Tournament to Benefit HBES Project

Council Member Bolick reported to Council that Elk River has offered to host a golf tournament to benefit the Historic Banner Elk School. The tournament will take place on September 21, 2015 at 12:00 p.m. He noted that a committee has been formed to help organize this event. Members of the committee include: Brenda Lyerly, David Lecka, Robert Tufts, Rick Owen and

Allen Bolick and more are welcomed. Council Member Bolick noted that the committee needs to meet soon to discuss sponsorships, invitation list, volunteers needed, a silent auction, etc. Controlling cost is a big key. Mayor Lyerly thanked Council Member Bolick for his report.

Historic Banner Elk School Update

Rick Owen reported that there are no committee reports this month (Finance Committee and Property Use Committee). He noted that at last month's meeting we discussed a landscape plan along the elk area in front of the school and the stage area for the Kiwanis which Bob Mann is working on, along with a site plan which Joel Shipley is working on. Mr. Owen stated that he has talked with both Bob and Joel and would like Council's feedback on a rendering that has been prepared. Mr. Owen noted that he, Ted Silver and Carol Silver attended a grant workshop that COG put on. They received some positive enthusiasm towards our project. There is definitely opportunity there; several people from surrounding areas thought that we had a great project. We will continue to work with them to get their input and to receive recommendations on possible funding options.

National Bike Month

Ted Silver addressed Council reporting that May is National Bike Month. He noted that specifically May 20th is an international event called the Ride of Silence and called upon Doug Owen who organized the Ride of Silence. Mr. Owen stated that Ride of Silence is to honor and remember those who have lost their lives riding their bicycles. Three lives have been lost in Avery County, all students of Lees-McRae. This will be the sixth year for the event in Banner Elk. Mr. Owen noted that it is an international event. There are 315 rides in 49 states and 22 countries around the world. Mr. Owen also reported that there is a new bike club in Town involving 30 of our children and 3 camps will be held this summer. Mr. Silver asked Council for their support and their endorsement for the events occurring during May: May 6: Bike to School Day, May 11-15: National Bike to Work Week, May 15: National Bike to Work Day and May 20: Ride of Silence. Council Members all agreed to show their support for the upcoming bike events.

Interim Finance Officer

Mr. Owen stated that Council is aware that the Town is currently in the process of searching for a new finance officer. State statutes require the Town to have a finance officer on staff. One of the people that can act as finance officer is the budget officer and by State statute the town manager is the budget officer. At present, the Town has a retired city finance officer handling the Town's bookkeeping. She is a contract employee and does not wish to take on the title of finance officer. Mr. Owen stated that he spoke with Misty Watson, the Town's new CPA, who spoke with the LGC and it is her recommendation to appoint the Town Manager as Interim Finance Officer which is the appropriate way to proceed. Council Member VonCanon motioned to approve Rick Owen, Town Manager, as the Interim Finance Officer. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Sidewalk Extension

Mr. Owen reported that at last month's meeting Council discussed with the VonCanon's, the property owners who the Town is looking to get easements from, extending the sidewalk from the caboose to the Mill Pond. He noted that William and Pat VonCanon are willing to work with the Town, but wanted a commitment from the Town that the Town will move forward with the project on a timely basis. Mr. Owen stated that Destination by Design gave the Town a quote

for design work last July 2014. Following last month's meeting, Mr. Owen contacted Destination by Design and asked them to update their proposal. He noted that the updated design agreement was in Council's packets. Mr. Owen stated that the first step for this project would be the design work and engineering. Last year's quote was \$18,000 which included surveying. This year's fee (\$21,500) includes a fee for Gateway Design and Construction Documents. He noted that Gateway Design opens up a lot of ideas, creating more of an entry point into Town at the Mill Pond. Mr. Owen stated that he wants a good exchange of ideas between Council and the consultant, but the first step is getting the design work and engineering underway with or without Gateway Design. Council Member Lecka asked if the Gateway Design idea would be an addition to or a replacement of the existing "welcome to Banner Elk" sign that sits on the bank. Mr. Owen noted that per the map, the red line indicates the approximate 875 feet of sidewalk that is in the design. Originally the sidewalk would just get to the culverts, just beyond the easements which reflects in the original cost. With the Gateway Design plan, we now have the opportunity to cross over the road, past the Cheese House to the boardwalk. Mr. Owen reported that he is looking at potentially two phases: (1) sidewalk just beyond the easements and (2) sidewalk across the road to the boardwalk. The Gateway design also includes a sidewalk coming down from Mill Pond Manor, making it a nice pedestrian way, more "municipal" in appearance. However, another issue is that the Town doesn't own that property. Currently, the owner is fine with the existing welcome sign. Mr. Owen recommended to Council that under the Schedule of Fees in the Design Agreement, Council agree to services (1) Flood Study and (2) Sidewalk Design, Engineering and Permitting and begin discussion with Destination by Design about the Gateway Design. This will give us time to contact the property owner, discuss the Gateway idea and begin the process of studying, permitting, designing and getting prices together on what the cost of this project is going to be in engineering. Council Member Bolick motioned to move forward with services #1 and #2, flood study and sidewalk design and hold on #3 Gateway Design until we can work on more tentative detail with the land owner and a new proposal subject to Council approval. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Review Budget Workshop Dates

Mayor Lyerly stated that Mr. Owen would like to hold the budget workshop at the end of May. Council Members agreed to a budget workshop on Tuesday, May 26 at 6:00 p.m. Mr. Owen noted that at June's Council meeting there will be a public hearing regarding the Town's budget.

Manager's Update

Mr. Owen reported that included in Council Member's packet were the police report, planning, zoning and tax collection report. Also included are the May 2015 Planning Board Meeting Minutes and the March and April 2015 High Country ABC Board Meeting Minutes. Mr. Owen also handed out a finance report which breaks down the revenues more broadly and under expenditure several items were added (i.e. Historical Banner Elk School). Mr. Owen noted that if there were any questions regarding these reports to let him or staff know.

Mr. Owen reported that there will be bike rides coming through the Town this weekend. The Beech Mountain Metric on Saturday and the Banner Elk Breeze on Sunday. The police department will be involved directing traffic.

At 7:20 p.m. Council Member Bolick made a motion for Council to proceed to closed session pursuant to NCGS 143-318.11. Council Member Lecka seconded. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.

Council returned to open session at 8:00 p.m.

Other Business

Mayor Lyerly stated that we need a motion to approve the Memorandum of Understanding between the Town and the Friends of the Historical Banner Elk School with the recommended adjustments permitting the mayor to sign on behalf of the Town of Banner Elk. Council Member Tufts motioned to approve the Memorandum of Understanding. Council Member Dunn seconded. All were in favor. No one opposed.

Council Member Tufts reported that regarding the Arts and Crafts shows we have 30 vendors for Memorial Day and probably more for the 4th of July. Council Member Tufts requested that Mr. Owen handle all the issues that arise regarding the art shows. He agreed.

Council Member VonCanon reported that Newland will not be holding its summer farmer's market, so perhaps the Banner Elk farmer's market held on Thursdays will bring in more people. He asked if each vendor pay a fee. Mr. Owen reported that the vendors had an agreement with Avery County for a \$25 fee per season. To date, Banner Elk is not receiving any money for their use of property and the Town has not asked them for an amount. There were discussions regarding the vendors providing service to the community on Town property and that a fee should be collected. Mr. Owen stated that he will look into this issue further.

There being no further business, at 8:10 p.m. Council Member Tufts motioned to adjourn the May 2015 Town Council meeting. Council Member Lecka seconded the motion. All were in favor.

Adjourn

The Town Council meeting adjourned at 8:10 p.m.

Mayor Brenda Lyerly

Attested

Approved: June 8, 2015