

BANNER ELK TOWN COUNCIL

**November 9, 2015
MINUTES**

The Banner Elk Town Council met Monday, November 9, 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 Four Eggers.

Call Meeting to Order

At 6:00 p.m. Vice Mayor VonCanon called the regular monthly meeting for November 2015 to order.

Pledge of Allegiance

Vice Mayor VonCanon led those in attendance with the Pledge of Allegiance.

Invocation

Council Member Bolick opened the meeting with prayer.

Public Hearing – Text Amendment to Civic Zoning District

Vice Mayor VonCanon opened the public hearing regarding the text amendment to the Civic Zoning District. Cheryl Buchanan reported that there is a sentence in Section 307.15 in the Civic Zoning District which reads *Management of the property in this district will be under control of the governmental entity or its assigns*. Ms. Buchanan stated that the Banner Elk Volunteer Fire Department will be a part of this district. Since they are a non-profit and no longer a government entity, this sentence does not apply. The Planning Board voted to approve having this sentence stricken from the zoning ordinance and is asking Council for its approval. Vice Mayor VonCanon asked if there were any public comments to this text amendment. There being no questions or comments, Vice Mayor VonCanon closed the public hearing at 6:02 p.m.

Mayor Lyerly joined the meeting at 6:02 p.m.

Approval of the Minutes

Mayor Lyerly asked if there was a motion to approve the October 12, 2015 Town Council Minutes. Council Member Tufts motioned to approve the October 2015 minutes as submitted. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Approval of the Stated Agenda

Mayor Lyerly asked if there were any additions or changes to the November agenda. Mr. Owen entertained that Item #6 be added to the agenda: Tax Refund and Tax Release. Council Member VonCanon motioned to approve the stated November agenda with the addition of Item #6 Tax

Refund and Release. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Public Comments

Mayor Lyerly recognized Jo-Ann McMurray. Ms. McMurray announced that Tony Hunter will donate to the Town a 40-ft. Christmas tree which will be placed in front of the Historic Banner Elk School for Christmas. She noted that Mr. Hunter will also help with getting the tree in an upright position. Mayor Lyerly stated that the Town will need to write up a resolution to Mr. Hunter for his generosity. Mayor Lyerly thanked Jo-Ann McMurray for all the work she is doing for this event.

Text Amendment to Civic Zoning District

Mayor Lyerly called upon Cheryl Buchanan. Ms. Buchanan stated that at the public hearing she reported that a sentence needs to be stricken from the definition of the Civic Zoning District. The sentence reads: *Management of the property in this district will be under control of the government entity or its assigns.* She noted that this sentence doesn't apply to the Banner Elk Volunteer Fire Department since they are a non-profit. Mayor Lyerly asked if there was a motion. Council Member Tufts motioned to approve the change to the Civic Zoning District definition. Council Member VonCanon seconded. All were in favor. No one opposed.

Consider Speed Limit Changes

Mr. Owen reported that at last month's meeting Council discussed lowering the speed limit to 20 mph at the Balsam/Dogwood area. The Staff agreed with the change and that the change should affect all roads that are accessed off of Balsam and Dogwood which include: Willow Way, Laurel Lane and Ivy Court. Mr. Owen noted that also discussed was Klonteska Drive. It is currently split with a 25 mph section and a 20 mph section. Staff recommends a change to 20 mph for this street also. Mr. Owen reported that included in Council's packet is an ordinance which amends the scheduled speed limits in Town. Homeowners were notified in the Balsam/Dogwood area and their feedback was positive and in favor of changing the speed limit. Mayor Lyerly asked if there were any questions. Council Member VonCanon asked how many signs will the Town need to change out and are they State regulated. Mr. Owen reported that there are currently three signs in the Balsam/Dogwood area and all three will have to be changed out and on Klonteska, the 20 mph sign will be moved. He noted that in anticipation of this change, he ordered 4 new State regulated speed limit signs. Council Member Bolick motioned to approve the ordinance amending the schedule of speed limits within the Town. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Capital Project Ordinance for Mill Pond Sidewalk Extension

Mr. Owen reported that Council has approved moving forward with the design work needed for the Mill Pond sidewalk extension, the contract with Destination by Design and where the money will come from. Mr. Owen stated that he would like Council to approve a Capital Project Ordinance. The Town currently has \$36,000 in reserves which will be placed in this new Capital Project Fund, which will provide the Town with working funds to begin the design, survey and permitting of the project. Once the Town has determined a cost for this project as well as where the money will come from, Council would do an amendment to this project ordinance. Mayor Lyerly asked if there were any questions or comments. Council Member Tufts motioned to adopt the Capital Project Ordinance. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Historic Banner Elk School Project Updates

Fred Schmitt addressed Council. He reported that based on several comments and suggestions that Council made at last month's meeting he put together a packet of several reports which summarizes where we are to date with the Historic Banner Elk School. CPN (Construction Professionals Network) will be in Banner Elk on December 10th and 11th and he will put together a perspective agenda for their visit. He reported that he established a recommended room rental rate of \$1.00 which is based on square footage. Mr. Schmitt noted that on one of the reports, he shows a comparison of a fixed rate of \$400 per room regardless of square footage and the other is multiplying the square footage by \$1.00. Using a fixed rate, we come up with a slight negative annual income rate versus using the \$1.00 per sq. ft. which results in a small surplus income. Mr. Schmitt also noted that his report is based on 75% occupancy, revenue from events at 50% and kept the assumptions for expenses the same. He stated that he excluded a significant number of rooms from the cash flow projections which represent a phased approach (i.e. Rooms 1, 2 and 3 need some work before suitable for rent) and suggests combining some rooms for single rental (Rooms 4 and 4a). Mr. Schmitt suggests that Council delegate to the Town Manager the ability to enter into short term leases (one year or less) at the suggested rate of \$1.00 per square foot and that the Town Manager have the ability to negotiate the rate depending what the prospective tenants bring to the table. Mr. Schmitt updated Council on several items: short term rental rates for temporary tenants such as art classes, organizations requiring meeting space, etc., setting a rental rate for the gym (\$500 to \$1,000) for special events such as plays, dance classes, etc., placing a hold on any additional space allocations for non-income producing activities, etc. Mr. Schmitt discussed several "open items": final decision on creating an independent non-profit commission, a possible detailed condition report for each room, decision on HVAC arrangements for the building, does the Town wish to establish minimum standards for appearance and condition of interior rooms, develop some type of work list for common areas (entry areas floors, wainscoting, etc.) which would be a Town expense, determine if Wi-Fi in the Book Exchange can be used by other tenants on a fee for service basis. In addition, Mr. Schmitt stated that he included the Project Management Plan which lists action items that have added, updated and completed. Council Member VonCanon stated the rate recommended for short term rental noted in item #5 (*rate of \$100 per room per week or about \$20 per weekday*) is low. He thought that we need to re-think this rate. Council Member VonCanon also noted that in regards to the HVAC arrangements for the building, it is very important we take this item seriously because it will have a big impact on the expense for the Town and the tenants. He also agrees that the Town should establish minimum standards for appearance and conditions of the interior rooms of this historic building. He also thanked Mr. Schmitt for the reports and update. Council Member Bolick noted that the Wi-Fi system for the Book Exchange was designed specifically for this area only and reported that on the summary of rooms and rates, Rooms 19 and 19a are both part of the Book Exchange. Mayor Lyerly asked if there were any further comments or questions. Mr. Owen stated that there were a few additional points he would like to go over with Council. He noted that Mr. Schmitt touched on items that Council needs to make a decision upon such as the repairs and renovations to the common areas and noted that Council Member Bolick has been working on several ideas. Council Member Bolick is trying to get grant funding for maintenance items related to the Historic Banner Elk School which would not be an expense to the Town. He noted that the areas they are looking at funding are for repairs to the hallways (flooring, painting the walls and ceiling), grants for repairs to the men and women's bathrooms

in the main building, and a large grant for repairing all the rooms that are not fixed. Some areas will require extensive repair before they can be considered rental space. Mr. Schmitt stated that if there is a role he could play in the grant process he would be willing to help. Council Member Bolick noted that we are currently working on getting the grant information together and working with a vendor in getting all the cost information available for the applications (i.e. costs for repairing bathrooms and bringing them up to code, costs for hardwood floors, etc.). He stated that he is trying to put together a committee that would work together in making the grant process easier. A lot of time and energy is involved. They are looking into grants that would apply to the renovation and restoration of an historical building. Discussions continued regarding time frame, the process involved in applying for these grants, Council's involvement, etc. Mr. Schmitt noted that CPN can help the Town with potential funding sources and pointing the Town in the right direction. Mr. Owen stated that he has two more items to confer with Council and it relates to rental concepts and costs. He noted that one is related to the gymnasium which is a lower impact use that is not necessarily event related (i.e. home school parents wanting to use the gymnasium a few times a week throughout the winter for PE). Several issues become involved: heating, maintenance, access time, paying events taking priority, citizens of Banner Elk, the square footage of the gymnasium, alternative uses for that space, etc. Mr. Owen asked Council if the Town is ready to move in this direction and if so at what hourly price or rental fee. Council Members agreed in the support of any community group wanting to use the gymnasium space, but need to consider the options. Mr. Owen stated that he will look into this further and the lowest impact it will have on the space. He noted that his plan is to still use it as a public, informal, recreational area for insurance purposes. Mr. Owen reported to Council that the field in front of the school is attracting much interest and asked Council if they were in favor of a group, other than for craft shows, scheduling and reserving dates for next year and if so, the cost to rent the field. Basically, in the past, people paid \$500 for an event. This past year the price went up to \$750 (\$500 for the first day, \$250 for the second day). Mr. Owen would like Council to consider the field rental revenue, the handling of future events in Town and who the Town partners with, along with different rate scales for different events. Mr. Schmitt suggested that the Town come up with some legal guidelines for the use of Town spaces whether it be community based, profit/non-profit, etc. which would address several contingencies. Council Members agreed. Mayor Lyerly noted that Mr. Eggers has mentioned this several times and thanked Mr. Schmitt for his input.

Board of Adjustment Appointment

Cheryl Buchanan reported that Art Neuberger has been serving as an alternate with the ETJ Board of Adjustment. He has recently moved into the Banner Elk town limits. She noted that since he has moved into Town and the Board of Adjustment needs an in-Town alternate, the Board would like for him to continue to serve. Ms. Buchanan is recommending that Council change his status from ETJ to in-Town alternate for the Board of Adjustment. The Town will need to advertise for someone to fill the ETJ position. Attorney Eggers noted that for appointments the Town requires a second reading unless Council votes unanimously to waive the second reading. Council Member Tufts motioned to change the status of Art Neuberger as ETJ alternate to in-Town alternate and to waive the second reading. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Tax Refund and Release

Cheryl Buchanan reported that she received a call from the Phillip Barrier, Avery County Tax Collector, regarding the assessment of property for New River Building Supply and John and

Anna Greer. Ms. Buchanan noted that the Town annexed a portion of the Greer's property which was the New River's sale store and warehouse. This was included in the County's tax assessment. The Town will need to refund \$1,795.62 for the past five years. Ms. Buchanan reported that a second item needs to be addressed. There was an error in assessment to the piece of property that includes the sales store and warehouse for tax years 2014 and 2015. The new value is \$1,501.40. Since 2015 has not been paid, Ms. Buchanan recommends the Town release the 2015 tax bill in the amount of \$6,070.48 and rebill at the correct amount. She noted that the net of these two actions will be \$1,213.18, a gain for the Town. Council Member Lecka motioned to approve the refund of the \$1,795.62 and release the 2015 tax bill. Council Member Bolick seconded the motion. All were in favor. No one opposed.

Manager's Update

Mr. Owen reported that included in Council Member's packet were the Financial Summary Report for 4 months ending 10/30/15, police report, planning, zoning and tax collection report. . Also included was a draft copy of the November 2015 Planning Board Meeting Minutes and a copy of the September 2015 High Country ABC Board Meeting Minutes. Mr. Owen noted that if there were any questions regarding these reports to let him or staff know.

Mr. Owen reported that the Woolly Worm Festival and Trunk or Treat were both a success; a good use of the school property. He noted that the Banner Elk Volunteer Fire Department Ladies Auxiliary thanked the Town for the use of the property and partaking in the events.

Council Member Tufts inquired about the Storm Water grant. Mr. Owen reported that Derek Goddard is working on obtaining more information. We looked at the grant application which was applied for following the park grant. It included storm water improvement related to the vault and the wetlands behind it. Mr. Goddard is looking into how the Town can best utilize the improvements. Mr. Owen noted that his original concern was the matching portion of the grant (50%), so we are looking into ways to find the cash for the matching portion of the grant.

At 7:02 p.m. Council Member VonCanon 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 7:41 p.m.

Other Business

Mr. Owen reported that in regards to the Drug Task Force, Shane Vance has left the employment of the Town. Neither he nor Chief Clawson took any action to fill his position because it is not in the best interest to the Town to fill that position on a temporary basis until we know if there is funding for next year. In the interim, the Sheriff has been looking into ways this position could be operated under his department which would involve the County Commissioners. Also the two Chiefs of Police are working on ideas in going forth with filling the Drug Task Force position. Mr. Owen reported that the Town received a letter from the ABC Board cancelling their contract with the Town for ABC law enforcement which we want them to do. The Town had a contract with them to provide alcohol and beverage control. He noted that

Chief Clawson is working with Sarah Brewer on options for this position. Mr. Owen will keep Council informed of discussions related to this subject.

Council Member Bolick stated that he and Rebecca would like to move the quilt, now hanging in the Council's Chamber, to the Book Exchange. Mayor Lyerly stated that the Historic Banner Elk School would be an appropriate place for the quilt. She and Council Members agreed. Council Member Bolick also reminded everyone that on December 3, from 5:00 to 7:00, there will be a "soft-opening" of the Book Exchange.

Council Member Tufts asked to confirm what had been done in recognition of the Robbins Family. Mr. Owen stated that the amphitheater was named in honor of the Robbins family. Signage was placed on the building naming it *Robbins Amphitheater* along with a plaque describing their contributions to the Town.

There being no further business, at 7:55 p.m. Council Member VonCanon motioned to adjourn the November 2015 Town Council meeting. Council Member Tufts seconded the motion. All were in favor.

Adjourn

The Town Council meeting adjourned at 7:55 p.m.

Mayor Brenda Lyerly

Attested

Approved: December 14, 2015