

BANNER ELK TOWN COUNCIL

**October 12, 2015
MINUTES**

The Banner Elk Town Council met Monday, October 12, 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. Mayor Brenda Lyerly called the regular monthly meeting for October 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 – Rezoning of Historic Banner Elk School Property and Banner Elk Volunteer Fire Department to Civic Zoning District

Mayor Lyerly opened the public hearing regarding the rezoning of the Historic Banner Elk School property and the Banner Elk Volunteer Fire Department to Civic Zoning District. Cheryl Buchanan reported that the Historic Banner Elk School is presently zoned medical/educational and the fire department is zoned government/office. The uses under these two districts are limited which puts a constraint on the Town in the operation of the school property and the operation of the fire department's building and property. She noted that the Planning Board met and discussed the creation of a new zoning district called the Civic Zoning District. Its uses would be broader than but not as extensive as a commercial property. Ms. Buchanan stated that one of the aspects of the Civic Zoning District is that it can be owned by a government entity and still have civic uses. Mayor Lyerly asked if anyone had any questions or comments. Council Member VonCanon stated that as an adjoining property owner to the school and fire department, he was notified of this zoning change and is pleased with the rezoning of these properties to Civic Zoning. There being no further discussion, Mayor Lyerly closed the public hearing at 6:06 p.m.

Approval of the Minutes

Mayor Lyerly asked if there was a motion to approve the August 10, 2015 and September 4, 2015 Town Council Minutes. Council Member VonCanon motioned to approve the August 10, 2015 minutes as submitted. Council Member Tufts seconded the motion. All were in favor. No one opposed. Council Member Lecka motioned to approve the September 14, 2015 minutes as submitted. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Approval of the Stated Agenda

Council Member Dunn motioned to amend the October agenda to add item #9 to call for a public hearing. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Public Comments

Mayor Lyerly noted that no one signed up for public comments.

Rezoning – Civic Zoning District

Mayor Lyerly noted that we just heard Ms. Buchanan's report at the public hearing regarding the rezoning of the two properties. She asked Council if there were any questions or if there is a motion. Council Member VonCanon motioned to approve the rezoning of the Historic Banner Elk School property to the Civic Zoning District. Council Member Bolick seconded. All were in favor. No one opposed. Council Member Tufts motioned to approve the rezoning of the Banner Elk Volunteer Fire Department to the Civic Zoning District. Council Member Lecka seconded. All were in favor. No one opposed.

Balsam Lane Speed Limit Request

Mr. Owen reported that the property owner who brought this to the Town's attention wasn't able to attend this evening's meeting. He stated that their property is located at 196 Balsam Lane. After lengthy discussions with the property owners on lowering the speed limit and researching several other streets in the general area which are also affected by the speed limit (i.e. Dogwood Lane, Willow Lane, Ivy Lane) he stated that the Town is recommending lowering the speed limit to 20 mph. Mr. Owen noted that 20 mph is a common speed limit in subdivisions. If Council is interested in lowering the speed limit, a resolution will be prepared for Council's approval. Mr. Owen reported that Council can set speed limits on any roads within the Town that are maintained by the Town. Several years ago a list of Town streets was compiled and a resolution passed approving speed limits on roads within the Town. Chief Clawson also looked into this issue and is comfortable with lowering the speed limit. Council Member VonCanon asked how far would the 25 mph speed extend. Mr. Owen stated that it would extend all the way up Dogwood, Balsam, the entire subdivision. Council Member Dunn asked if Klonteska could be included. Mr. Owen noted that Council can set the speed limit for any in-Town road and stated that he will supply to Council the list of Town streets and their speed limits. Any street in Town that is not posted is actually 35 mph, which is a city wide speed limit. To change this would be very complicated. Town Council agreed to the idea of changing the speed limit to 20 mph on the roads mentioned. Mr. Owen reported that he will prepare a resolution that will be included on next month's agenda.

Budget Amendment for Work on Gymnasium

Mr. Owen reported that at last month's meeting Mrs. Tufts presented the Town with a check which represented proceeds from Art on the Greene which she managed. Later in that meeting Council approved spending some of that money for repair work to the gymnasium at the Historic Banner Elk School. Mr. Owen stated that he prepared Budget Amendment #20151012-1 to recognize the revenue received from Art on the Greene and expenses for maintenance and repairs to the gymnasium. What Ms. Tufts generated was \$15,454.00. Some of that money was already deposited into the Town's account. What had not been deposited was \$12,340.00. Mr. Owen is asking Council to approve the Budget Amendment recognizing this revenue and expensing the revenue to maintenance and repairs. He noted that Council has approved \$5,200 for painting

which has been completed. The quote to install the two heating units is \$3,780. Mr. Owen stated that the Town spent \$850 to replace and repair some of the wood flooring that was rotted. The Town has also estimated that it will cost \$1,500 for the gas and electric hookups. Mr. Owen reported that to date the total cost for the repairs is \$11,300. Mr. Owen is asking Council to budget this money to maintenance and repairs. Council Member Tufts motioned to approve the Budget Amendment. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Governors Crime Commission Grant

Mr. Owen reported to Council that Chief Clawson applied for a grant from the Governors Crime Commission in January 2015. The Town was not sure if we would receive it so it was not budgeted for. The Town has received the \$15,000 grant. Mr. Owen is asking Council to approve the Budget Amendment, recognizing and accepting the grant revenue and the expenses. Chief Clawson has already purchased three body-worn video cameras which the officers are now sharing and would like to use the money from this grant to purchase three additional body-worn video recorders. Council Member VonCanon motioned to approve the Budget Amendment to accept the grant revenue. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Tax Release: 3 Releases Requiring Action

Cheryl Buchanan reported that the first release is for Avery County in the amount of \$1,699.92. The property is located on Beech Haven Road. She noted that Tax Assessor Phillip Barrier called her and reported that he had mistakenly put this property on the tax scroll and that this property is exempt and should be released. Council Member Bolick motioned to release this money from the tax bill. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Cheryl Buchanan reported that the second release is for T-Mobile in the amount of \$219.09. She noted that the NC Department of Revenue sends certification to municipalities each year with values for taxing infrastructure within the Town (i.e. utilities such as electric and gas, railroads, etc.). She received this bill in September 21st following the mailing of the Town's tax bills. Not sure of this bill, she contacted the State and was told it was for a telecommunications tower on Balm Highway, which is outside the Town's tax jurisdiction. Ms. Buchanan is requesting Council release this bill. Council Member Lecka motioned to release the bill in the amount of \$219.09. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Cheryl Buchanan reported that the third tax release is for Sister Lees Café in the amount of \$178.20. Ms. Buchanan noted that Avery County taxed Sister Lees Café twice by mistake. She spoke with the owner and with Avery County. Avery County reported that it was their mistake and the Town needed to release the monies. Council Member VonCanon motioned to release the \$178.20. Council Member Bolick seconded the motion. All were in favor. No opposed.

Christmas in the Park Information

Mayor Lyerly introduced Jo-Ann McMurray. Ms. McMurray reported that Christmas in the Park will be held on Saturday, December 5, 2015, which will be an all-day event. The events will begin at Dunn's Deli with breakfast with Santa, followed by a children's movie at Lees-McRae. She noted that several of the businesses in Town will hold different activities for children and

adults. Other events include: holiday craft show in the Historic Banner Elk School gymnasium, grand opening of the Book Exchange, luminaries in the park, live nativity scene, Christmas parade, etc. Mayor Lyerly asked Council if everyone was in agreement to the addition of a Christmas tree to be placed on the grounds of the Historic Banner Elk School. All Council Members were in favor. Mayor Lyerly thanked Jo-Ann McMurray for all her hard work.

Historic Banner Elk School Project Updates

Review Book Exchange Project: Donna Dicks, chairman of the Book Exchange Committee, introduced other members serving on this committee. She reported to Council that the committee began its planning work in early August. She noted that it will not be a traditional library lending system, but more of a bring a book-take a book system. Ms. Dicks reported that several things needed to be considered in updating this space (i.e. lighting, flooring, painting, heating/AC, furnishings, etc. Donations have been received, the work is almost complete and it is all paid for. We are just waiting for several miscellaneous furnishings (i.e. area rugs, easy chairs). Ms. Dicks distributed a new brochure which provides information about the Town's new Book Exchange. These will be distributed around Town and also at the Woolly Worm Festival to get the public aware of what is happening in the Historic Banner Elk School. Ms. Dicks stated that the committee is still working on programming and its operation.

Updated Cash Flow Projections: Fred Schmitt reported to Council that he revised the cash flow model based on Council's decisions made at last month's meeting. He noted that his scenario he removed the Book Exchange and associated space (rooms #19, 19a, 19b and 20), the gym (room #12) and Mayland Community College (rooms #26, 27, 28) which reduces the amount of square footage available for rental to a minimum of 7,900 sq. ft. If you add back the kitchen/cafeteria areas, the square footage available is 11,305 sq. ft. Mr. Schmitt stated that in the report he kept the projections and assumptions pretty much the same under "cash flow". At \$1.00 per square foot, 50% rental rate and using an expense acceleration at 50%, the minimum the Town would make would be \$22,339.50 and the maximum would be \$35,642.75. Mr. Schmitt noted that he adjusted the revenue projections based on Kimberly Tufts' check received last month. He stated that all in all, the report is encouraging. At a 50% occupancy rental rate we stand to generate some revenue for the Town. Mayor Lyerly asked Mr. Schmitt what rental rate he recommended: \$1.00 or \$1.50 per square foot. There were discussions regarding assigning a rental rate to each room per month, range of rental options based on the state and condition of each room (i.e. heated/not heated, condition of flooring), negotiating the rent of a room on an as-is basis, the expense of a turn-key operation, etc. Council Member Bolick reported that he has been talking with a couple who is very interested in room number 9 (378 sq. ft.) They are willing to put up the money to fully renovate it and use it as a short term rental/meeting space. They want to help the Town and are very committed to the Historic Banner Elk School. Discussions continued regarding the heating of individual rooms, entire building, prorating the cost, etc. Mr. Schmitt suggested that before Council commits to a definite rental policy, the Town should pose the rental rate question to CPN (Construction Professionals Network) who will be here at the end month on a pro bono basis. They can assist the Town in providing measurable rental rates along with recommendations for each space. Mr. Schmitt stated to Council that before the Town commits to a rental policy the Town should seek the advice of CPN. They are the ones who will respond to the Town's needs in all areas (i.e. marketing, rental rates, facility assessment, etc.). Mayor Lyerly stated that the discussions we had this evening were good and we will be able to use all of this input in giving them guidance. She noted that she looks forward to hearing what they have to say. Mayor Lyerly and Council agreed that Council Member Bolick move ahead

with his presentation to the couple interested in room number 9 while we wait for CPN for their assessment.

National Historic Registry Update: Mr. Owen stated that at last month's meeting he reported that the Greater Banner Elk Heritage Foundation received an offer by a private donor to pay for a consultant to come in and assist the Town in having the school property listing on the National Historic Registry. He noted that Council accepted the offer. Mr. Stuart Gray was contacted and informed that the Town would like him to proceed with this undertaking. Mr. Owen reported that Mr. Gray presented the Town and the Greater Banner Elk Heritage Foundation with a *Time-Product-Payment Schedule* which is included in Council's agenda packets. The schedule is a time line which shows that Mr. Gray will submit a first draft of nomination on January 29, 2016. On April 27, 2016, he will submit the final draft nomination and on June 9, 2016, the Banner Elk School will be nominated and reviewed by the NRAC. The Town now has the three dates and the monies that are due at each date. The Greater Banner Elk Heritage Foundation does have the funds available. Mr. Gray also sent a letter asking if the terms were acceptable. Mr. Owen noted that he acknowledged his letter and terms, but has not heard back in terms of a contract and requirements. The funds are available and the Town is ready to proceed.

Consider Budget Amendment for Sidewalk Design Work

Mr. Owen reported that the Town has received the needed easements from the five properties involved to run the sidewalk from the caboose to the Mill Pond. He noted that in June 2015 (last fiscal year) Council approved entering into a contract with Destination by Design for the design work, engineering and permitting for this sidewalk extension pending the easements. Mr. Owen stated that he contacted Destination by Design and they are willing to begin work based on the agreed contract amount of \$16,000. He would like Council to acknowledge that the Town still intends to enter into a contract with Destination by Design, that the Mayor has the authority to enter into this contract, that Council's intention is to pay for the design work of this project and that the funds will come out of Fund 60, the General Capital Projects Fund. The Town has a little over \$30,000 in this fund which is designated for sidewalk work. Mr. Owen stated that if Council is in agreement, he will draw up a Capital Project Ordinance and present it to Council at next month's meeting. To begin this project, the Town will set up a Capital Project to put this money into. Mayor Lyerly asked Council if they were in agreement. Council Members all agreed.

Call for a Public Hearing – Zoning Ordinance

Attorney Eggers reported that a resolution will be prepared for Council to be considered at next month's meeting. He noted that it is a technical correction, striking out a sentence, so will not have to go before the Planning Board. Council Member Bolick motioned to call for a public hearing at next month's meeting. 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 were the police report, planning, zoning and tax collection report. Mr. Owen distributed the Financial Summary Report for three months ending 9/30/15. Also included was a copy of the August 2015 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 is this coming weekend. The Town is busy preparing and everything is falling into place. There was a discussion regarding vendor parking. Mr. Owen noted that the Town is not responsible, but that the Police Department is involved.

Mr. Owen noted that on the Financial Summary Report a couple of new funds were added under the department of the Historic Banner Elk School (i.e. Restricted Donations, Book Exchange, Transfer from General Fund); all approved by Council at last month's meeting.

At 7:42 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 7:56 p.m.

Other Business

Mayor Lyerly reported that a motion was needed to refund \$610 to the property owner who incurred expenses due to water problems. Council Member Tufts motioned to pay the \$610. Council Member Dunn seconded the motion. All were in favor. No one opposed. Attorney Eggers requested the name of the property owner. Mr. Owen stated that it is Rene Camaret, Account 143.

Council Member Bolick noted that at some point the Town will need to address gutters at the school; adding some at the back and fixing the ones in the front which are too small. Mayor Lyerly stated that we need to add this to the list for CPN to address.

There being no further business, at 7:58 p.m. Council Member Bolick motioned to adjourn the October 2015 Town Council meeting. Council Member Lecka seconded the motion. All were in favor.

Adjourn

The Town Council meeting adjourned at 7:58 p.m.

Mayor Brenda Lyerly

Attested

Approved: November 9, 2015