

BANNER ELK TOWN COUNCIL

October 8, 2018

MINUTES

The Banner Elk Town Council met Monday, October 8, 2018 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

Council Members present: Mayor Brenda Lyerly, Charlie VonCanon, Mike Dunn, Allen Bolick and Robert Tufts. David Lecka was absent.

Staff present: Town Manager Rick Owen, Police Chief Kevin Hodges, Cheryl Buchanan and Attorney Four Eggers.

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular monthly meeting of October 2018 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 or amend the September 2018 Town Council Minutes. Council Member Tufts asked that on page 4, the last sentence, that the word *can* be changed to *will* (*Council agreed that Art on the Greene will hold a fourth show on the first weekend in August*). Council Member Bolick motioned to approve the minutes as amended. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Approval of Stated Agenda

Mayor Lyerly reported that Item 7 needs to be added to this month's agenda which is a resolution to amend chapter 72 regarding parking. Council Member Dunn motioned to amend the agenda adding Item #7. Council Member Tufts seconded the motion. All were in favor. No one opposed.

Public Comments

Council Member Dunn reported that last Thursday's Founder's Day Celebration, a joint effort between the Town of Banner Elk and Lees-McRae College, was a rip-roaring success. Its success was due in large part to the efforts and work of our Town Manager, Rick Owen, and his dedicated staff. Council Member Dunn noted that he was approached by many people hoping that this event would be an annual event. He also shared a story about the behind the scenes efforts of our Town Manager regarding the homecoming events held at Lees-McRae on the following Saturday and how he personally took care of handling a situation for the event at the college. Council Member Dunn noted that Mr. Owen deserves a huge thank you from the Town for all he does for the Town and its events and all he does for the Town behind the scenes. The Town is blessed to have such a dedicated individual leading our Town. Mr. Owen thanked Council Member Dunn for his kind words. Mayor Lyerly thanked Mr. Owen from all Council Members.

ABC Audit Report Presentation

Mayor Lyerly introduced Sara Brewer, who was accompanied by Donna Dicks and Robin Dunn. Sara Brewer reported on the Audit Report ending June 30, 2018. She noted that sales for this year were \$3,426,182 up \$206,435 from last year; 10% from this past year. Sales have been growing. Ms. Brewer noted that \$806,498 was paid out in taxes which included state excise tax, mixed beverage tax for the department of human resources, rehabilitation county surtax and wine sales tax. Ms. Brewer reported that the gross profit for this year was up \$48,000 from last year and the expenses were down approximately \$20,000 from last year. She noted that as budgeted, \$85,000 was distributed to the Town of Banner Elk, Town of Seven Devils and the Town of Sugar Mountain. Ms. Brewer presented to Mr. Owen a hard copy of the ABC Audit Report and a bonus check in the amount of \$10,000. Ms. Brewer noted that the State requires the ABC System to give back to its municipality or county or the three towns in our case, 3-1/2 percent. Out of what we made this year, that would represent approximately \$95,000.00. High Country Municipal is giving back as a whole \$990,000 over and above what the State mandates. Ms. Brewer stated that this Board serves as a pleasure to three towns and over the years the Board has worked very generously to give more in distributions and bonuses to the three towns. Ms. Brewer directed Council's attention to the handout on how the North Carolina ABC System works. She explained how the ABC Commission is managed and operates. Ms. Brewer noted that there is a contract issue with the State Auditor and the interpretation of the law and the ABC Commission. She noted that Representative Chuck McGrady from Hendersonville has promised the ABC Commission that come January there will be a push for privatization and believes that NC should quit the liquor business. Donna Dicks noted that it is important to know that a privatized alcohol system is not to any town's advantage or to the State's advantage. The State does receive a lot of money from taxes each year in addition to what we are required to give to alcohol education, law enforcement and to the local governments. Robin Dunn noted that as shown on the diagram and the corresponding arrows the problem is not at the store level. Our store in particular operates very efficiently and gives back to the community. Mayor Lyerly thanked Sara, Donna and Robin for their reports and explanations and for the distribution and bonus to the Town.

Discussion, Scheduling of Events at Historic Banner Elk School

Mayor Lyerly reported that in the past there has been a schedule of events held at the Historic Banner Elk School. Art on the Greene has 3 art shows and the Avery Chamber of Commerce has 2 art shows. The Town also has to juggle these events around Ensemble Stage and their rehearsals and performances. She noted that all the money that Art on the Greene make from their shows goes to the Town to help pay towards the debt on the Historic Banner Elk School. Mayor Lyerly hopes that this evening we can discuss and determine the 2019 schedule. Mr. Owen noted that Council and the Town are trying to determine how to best maximize the use of the property in order to make the debt payments and also not damage the relationship the Town has with the Avery Chamber of Commerce. Mr. Owen distributed a 2019 calendar marking out the dates for each event and also the 2019 Season Schedule for Ensemble Stage. There were discussions regarding Art on the Greene adding another art show and the concern that too many shows saturate the market, holding a variety of events held at the school property other than art shows and having the Avery Chamber of Commerce hold their shows in other parts of the County. Ms. Melynda Pepple spoke on behalf of the Avery Chamber of Commerce and stated that their fine art festivals have been going on for 30 years, ten of which have been held in Banner Elk. She noted that their

vendors and attendees are accustomed to Banner Elk. Ms. Pepple also stated that the Avery Chamber works closely with keeping every event held in Avery County publicly noted and wants every business, the entire community in Avery County unified. There were continued discussions regarding adding another art show for Art on the Greene in September, keeping just the 5 shows, as is, having different kinds of revenue producing events, the need to raise money for the school, how much money should be charged for non-Town events, etc. After much discussion, Council Member Dunn motioned to have 3 shows for Town sponsored Art on the Greene and 2 shows for the Avery Chamber of Commerce. Council Member VonCanon seconded the motion. Council Member VonCanon added an amendment stating that this motion is based on 2019 only. Council Member Dunn agreed. Mayor Lyerly asked who were in favor of this motion. Council Members Dunn and VonCanon were in favor. Council Members Bolick and Tufts were opposed. With two in favor and two opposed, Mayor Lyerly voted in favor of the motion. The motion passed.

International Walk to School Day Proclamation

Mr. Ted Silver reported that International Walk to School Day is October 10, 2018. He noted that this is a global event which helps promote safety, exercise and health to our youth. Mr. Silver stated that he spoke with the principal of Banner Elk Elementary, Justin Carver, and the school will recognize this day with activities for the students. Mr. Silver read the proclamation. He thanked Council for their continued support and for the expansion of the Town's greenway and Town park. Council Member Tufts motioned to approve the proclamation. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Consider Calling for a Public Hearing, Rezoning Request

Cheryl Buchanan reported that a request to the Town was made by Richard Simeone who is working in partnership with Angelo Accettura. He owns a piece of property on Banner Creek Road which is currently zoned R-2. Ms. Buchanan stated that the owners are requesting that the parcel be rezoned to C-2. She referred to the map included in Council's packet and noted that Mr. Simeone's property is surrounded by several C-2 zoned properties and R-2 properties. It is not out of the ordinary for a request to be made like this. If Council considers this rezoning and calls for a public hearing, Ms. Buchanan stated that she will inform all adjacent property owners of this rezoning request. Council Member Dunn motioned to call for a Public Hearing at the November meeting. Council Member Bolick seconded the motion. All were in favor. No one opposed.

Consider Ordinance Amendment, Towing and Booting Ordinance

Mr. Owen reported that this ordinance amendment was presented to Council at the August meeting. It brought to light an issue that Staff felt needed to be addressed with vehicles being towed and booted within the Town limits and citizens and visitors were not properly protected from having their vehicles towed and knowing what the consequences were for illegal parking and their ability to reclaim their vehicle. He noted that Attorney Eggers drafted an Ordinance Amendment which Council reviewed a couple of months ago. Police Chief Hodges also took the Ordinance Amendment out to business owners, the college and tow truck operators to review it with them and the effects it has on them. Mr. Owen noted that by no means does this ordinance make towing or booting illegal, but it simply sets out guidelines. It also serves as a protection for our citizens and visitors. Mr. Owen stated that following discussion from our prior meeting, Attorney Eggers added *Section 73.04 Towing on Residential Property*. There was also discussion regarding fees and payment options. We are proposing that credit and debit cards can be used. Mr. Owen noted that now we need to discuss setting a compliance date. There was discussion regarding *Section 73.04 Towing on Residential Property*, specifically the wording *may be towed*

after 48 hours. Council Member Bolick motioned to adopt the Towing and Booting Ordinance with the revision to 73.04 by removing the words “after 48 hours” and to change the effective date to January 1, 2019. Council Member Dunn Seconded the motion. All were in favor. No one opposed.

Historic Banner Elk School Project Updates

Council Member Bolick reported that the project being worked on in the Community Learning Center is almost complete and on budget. Once the gutters are installed, in about two weeks, the project will be complete

Council Member Bolick reported that the golf tournament raised a little over \$45,000 towards the purchase of the Historic Banner Elk School. He thanked everyone for their help and support.

Council Member Bolick noted that the next project that at the Historic Banner Elk School will be the brick building. A new roof will be installed (truss roof), new gutters, new windows and reworking the bathrooms. Mayor Lyerly thanked Allen and Rebecca for all their time and effort in making the golf tournament another successful project for the school.

Amend Code of Ordinances § 72.99: PENALTY

Mr. Owen reported that this is a section of the code which references penalties for traffic violations; specifically, *Chapter 72* regarding *Stopping, Standing and Parking*. It relates back to the Town’s enforcement of no overnight parking at the Historic Banner Elk School. This item was discussed with Council several months ago. Signs were installed at the school and discussions were had with Chief Hodges regarding the Town having an enforcement mechanism in place. Mr. Owen noted that Attorney Eggers worked on a section of the ordinance in which the Town can enforce the signage for no overnight parking. He felt that the penalty section should be updated. Mr. Owen stated that no wording in the ordinance has been changed except in Section 72.99. Attorney Eggers noted that the statute allows a parking ticket up to \$50, so the ordinance states that a penalty shall not exceed \$50. If this resolution is adopted, Council will have to amend the Town’s Schedule of Fees to reflect what the parking penalty will be so that when the Police Department issues a parking ticket, they will know how much the fine can be.

Council Member Dunn motioned to approve the Resolution to amend the Ordinance Section 72 regarding parking penalties. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

Council Member Tufts motioned to amend the Schedule of Fees to reflect the \$50 parking fee. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Manager’s Update

Mr. Owen reported that included in Council Member’s packets are the planning, zoning and tax collection reports, police report and the Financial Summary Report for 3 months ending 9/30/18 was distributed. He stated that if there were any questions regarding these reports to let him or the staff know. Also included is a draft copy of the October 2018 Planning Board Meeting Minutes and the August 2018 High County ABC Board Meeting Minutes.

Mr. Owen reported that the water line extension at Mr. Ward's property to the lift station has been completed. Other than some paving patching to do, the water and sewer lines have both been tested and are in operation. Mr. Owen commended Eggers Construction for a job well done.

Mr. Owen stated that in review of the Town's ordinance and amendment that Council just approved regarding enforcement of parking, it has come to the Town's attention that we should have a traffic map indicating street names, where public parking is allowed/not allowed, etc. He requested Council to consider additional "*no overnight parking*" signs at Town Hall and along Park Avenue. Council Member VonCanon motioned to approve the Town Manager moving forward with this request. Council Member Bolick seconded. All were in favor. No one opposed.

Mr. Owen noted that he has an additional signage request to add to the traffic map. At the Historic Banner Elk School beginning at Azalea circle next to the Fire Department, it has been reported that people are cutting through this area to avoid the traffic light. Mr. Owen would like a sign "*no thru traffic*" placed in this area and at the stop sign at the school. With these signs the Police Department can then enforce the penalty that was just passed. It would also be added to the Town's Code of Ordinances. Council Members all agreed. Mr. Owen noted that this item will be brought before them at next month's meeting.

Mr. Owen reported that the community picnic held last Thursday was truly a successful community event. Mr. Owen gave all credit and thanks to Dr. King, President of Lees-McRae, for bringing this event to light. It brought the Town, the College and the community together for an activity. Mr. Owen noted that it was a great opportunity to work with Lees-McRae.

There being no further business, Mayor Lyerly asked for a motion to adjourn this evening's meeting.

At 8:05 p.m. Council Member VonCanon motioned to adjourn the October 2018 Town Council meeting. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Adjourn

The Banner Elk Town Council meeting adjourned at 8:05 p.m.

Mayor Brenda Lyerly

Attested

Approved: November 12, 2018