

# **BANNER ELK TOWN COUNCIL**

**September 10, 2018**

## **MINUTES**

The Banner Elk Town Council met Monday, September 10, 2018 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, Charlie VonCanon, Allen Bolick and Robert Tufts.

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 September 2018 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.

### **Approval of the Minutes**

Mayor Lyerly asked if there was a motion to approve or amend the August 2018 Town Council Minutes. Council Member VonCanon motioned to approve the August Town Council Minutes as written. Council Member Lecka seconded the motion. All were in favor. No one opposed.

### **Approval of Stated Agenda**

Mayor Lyerly reported that there is an item that needs to be added to this month's agenda and it is in regard to Constitution Week. Council Member Dunn motioned to amend the agenda adding Item #5 Constitution Week. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

### **Public Comments**

There were no public comments.

### **Request to Lower Speed Limit – Old Turnpike East**

Mr. Owen reported that he was approached by a resident on Old Turnpike East. They inquired about the process in getting the speed limit lowered. Mr. Owen asked the resident for the request to be made in writing. He noted that enclosed in Council's packet is a memo from the residents on Old Turnpike East outlining the reasons for their request to lowering the speed limit from 25 mph to 15 mph signed by all residents. Council Member Lecka motioned to approve the request. Council Member Dunn seconded the motion. All were in favor. No one opposed.

### **Request to Hold Fundraiser at Robbins Amphitheater**

Mr. Owen reported that Lynne Lear has held a couple of events back in 2008 and 2010 at the Robbins Amphitheater. He noted that she contacted him with a request to use the amphitheater for a fundraiser this year. Mr. Owen stated that some circumstances have changed and would like Council's consideration regarding this event and events held in the future and perhaps also to seek legal counsel. He noted that prior to the agenda packets going out, he did not have all the specifics regarding the event (date, time, etc.). Ms. Lear introduced herself to Council stating that she is a real estate broker with Premier Sotheby's International Realty and a resident of Banner Elk for thirteen years. She explained how she is involved in charity work and described the events she has held in Banner Elk, Blowing Rock and Boone, raising money for a woman in need of a kidney transplant, helping a family whose husband/father was killed in an accident, etc. Ms. Lear described the specifics for her current fundraisers and asked for the support of Council. Council Member Bolick asked her to explain the program for this event (i.e. parking, food, music, etc.) and the number of people attending. Ms. Lear described her plans and noted that approximately 200 people could possibly attend based on the 2010 event. Mayor Lyerly noted that what Ms. Lear has done and wants to do with this fundraiser is a wonderful gesture. Mr. Owen asked Ms. Lear if there was a date set for this fundraiser. She noted it would be held on Sunday, September 30<sup>th</sup> from 1:00 – 8:00 p.m. and explained that money is raised by donations, food sales and percentage of alcohol sales. Council Member Dunn questioned liability insurance and the licensing of food. There were discussions about the catering of food. Mayor Lyerly thanked Lynne Lear. She stated that Council will discuss this with the Town attorney and will do whatever we can to assist you.

### **Consider Town Code Amendment – Chapter 74: Operation of Golf Carts**

Mr. Owen reported that several years ago Lees-McRae College approached the Town about the use of utility vehicles and golf carts on campus. Council had approved at that time for the Town Manager to seek legislative authority to allow utility vehicles and golf carts on Town streets by ordinance or rules that were set by Council. Mr. Owen reported that since that time the general statute has changed. Now all municipalities can, by ordinance, allow golf carts (not utility vehicles) on Town streets. Mr. Owen stated that Lees-McRae has an upcoming event in which they would like to use golf carts and he told them that he would work on bringing an ordinance to Town Council. He noted that Attorney Eggers has prepared an ordinance with a very limited use of golf carts in certain circumstances. The way the ordinance is written, someone could get a permit for a 48-hour period, 4 times a year to operate golf carts on certain streets to be determined by the Town Manger and Police Chief. Mr. Owen noted that it is a permit process in which the Town Manger would sign off on the streets and the use within the 48-hour period and Police Chief would sign off on the registration of the golf carts for that period of time. The ordinance would be to allow golf carts to be used for special events, transporting people (i.e. elderly, handicapped) from point A to point B in certain areas within the Town. It certainly can be expanded in the future. Mr. Owen stated that this ordinance will allow the current need to be met next month for Lees-McRae. He noted that there is a reference to a fee for registration which would be included in the fee schedule. He discussed with Police Chief Hodges a potential \$25 fee per event not per cart. This would meet the requirements per the ordinance. Council Member Lecka motioned to approve amending the Town code to add Chapter 74, Operation of Golf Carts. Council Member Dunn seconded the motion. All were in favor. No one opposed.

Attorney Eggers asked Council if they wished to consider the fee schedule that Mr. Owen referred to and noted that it would not be part of the ordinance. Council Member Tufts motioned to add a

\$25 registration fee to the fee schedule. Council Member VonCanon seconded the motion. All were in favor. No one opposed.

### **Historic Banner Elk School Project Updates**

Mayor Lyerly called upon Kimberly Tufts. Ms. Tufts reported that Art on the Greene has completed its 4<sup>th</sup> year. She gave an overview of the growth of the event over the past 4 years, giving a recap of the total number of artists/vendors from all 3 shows in 2015, 2016, 2017 and 2018. Ms. Tufts reported that in 2015 Art on the Greene collected \$19,000 for the Historic Banner Elk School. \$38,000 was collected in 2017 and over \$100,000 has been collected through 2018. She noted that it has been exciting watching this event grow. Mayor Lyerly thanked Kimberly and Robert Tufts for all their hard work.

Council Member Bolick reported that the remodel project at the back portion of the school is underway. The metal roofing is being installed on that portion and the walkway. Once the roofing is complete, repair work will continue with the flashing, painting, new gutters, windows and new doors. Council Member Bolick noted that when finished, phase one of this project will be complete. He noted that they have received a promise for the funding for the remainder of this project (phase two and three).

Council Member Bolick gave an update on the golf tournament which will be held on September 24<sup>th</sup> on Beech Mountain and noted that all the plans are going well.

### **Consider Proclamation for Constitution Week**

Mayor Lyerly reported that two DAR (Daughters of the American Revolution) groups have petitioned the Town to do a proclamation for Constitution Week. Mayor Lyerly read the *Proclamation Commemorating the Week of September 17 through 23 as Constitution Week*. Council Member Tufts motioned to accept the proclamation. 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 2 months ending 8/30/18 was distributed. He stated that if there were any questions regarding these reports to let him or the staff know.

Mr. Owen distributed the press release from Lees-McRae regarding the Founder's Day ceremony and family picnic/concert to be held on October 4<sup>th</sup> in the Town park. Lees-McRae is trying to get the word out so that this event can be incorporated with the inauguration and homecoming. He noted that the Town and TDA will also do a press release in a few weeks. Mr. Owen outlined the schedule of events as described in the press release. Mr. Owen reported that the Founder's Day Ceremony will begin at 4:30 p.m. in the park which will be an acknowledgement of the planting of two trees; one in Tate-Evans Park and the other on the campus of Lees-McRae. He stated that starting at 5:00 p.m. the concerts will begin. Food trucks will be stationed at the upper portion of the park, a portable stage will be set up at the picnic shelter at the lower portion of the park, there will be two beer vendors and the Town will issue a permit for that, there will be games for younger children, inflatables, etc. Mr. Owen noted that the event should end approximately at 8:30 p.m. He hopes that this event will bring the community and college together to celebrate its relationship.

At 6:45 p.m. Council Member VonCanon motioned for Council to proceed to closed session pursuant to NCGS 143-318.11. Council Member Bolick seconded the motion. All were in favor. No one opposed.

Council returned to open session at 7:33 p.m.

### **Other Business**

There was further discussion regarding the request to hold a fundraiser event at the Robbins Amphitheater. Council Member VonCanon proposed that if Council accepts this request and for future public events, certain provisions would have to be made: associated with a 501(c), requesting a deposit for electricity and cleanup, proof of liability insurance (\$500,000 to one-million-dollar policy). Attorney Eggers noted that a \$500,000 to a million dollars is not unusual for a liability policy and would be comfortably protected. Council Member Lecka recommended that this event be a “test run” and will be revisited at the next Council meeting. Council Member VonCanon motioned to approve this event based on the terms discussed. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Attorney Eggers noted that for minute purposes, it was discussed that there would be 200 people attending this event in the amphitheater. This should be included as a benchmark for future discussion. It would be necessary to establish a number when applying for an application for future public events. There was further discussion about charging rent, costs for electricity and costs for police monitoring for such events, alcohol permit and defining the area.

There being no further discussion, all were in favor of these points being included in the prior motion. No one opposed.

Mayor Lyerly asked Attorney Eggers if we laid out enough parameters for us to proceed. Attorney Eggers stated that he was comfortable with Council’s decision and is happy to proceed in this regard.

Mayor Lyerly asked if there was any other business. Council Member Tufts asked that we finalize the discussion which began last month regarding dates for Art on the Greene. The established dates are Memorial Day, 4<sup>th</sup> of July and Labor Day weekends. Council Member Tufts noted that there was an email from Fred Schmidt regarding the art shows organized by the Avery Chamber of Commerce for 2019 and 2020. Currently they hold two art shows each year. Kimberly Tufts joined Council to share her opinions. There were discussions regarding Art on the Greene adding another show in August, money coming into the Town from Art on the Greene, the relationship between the Town and the Avery Chamber of Commerce, the shows held in Blowing Rock which are held once a month through October, setting standards for the shows, the number of vendors approved for the shows, a formed venue, the effects the shows have on Ensemble Stage and their schedule, etc. It was proposed that the Town needs Ensemble Stages’ schedule in order to provide Avery Chamber of Commerce their dates. Council agreed that Art on the Greene will hold a fourth show on the first weekend in August.

Mr. Owen reported that the Town received a donation and it will go to the school fund. He would like it to go before Council this evening and approve a budget amendment for the Mayor to sign. Council Member Bolick described the work to be done in three phases: Phase 1 - roofing. Phase 2 – repair siding on the back portion of the school, repair caulking, painting the exterior and the French drain system which amounts to \$36,000. He noted that he has a commitment for funding the \$36,000. Council Member Bolick would also like to get approval for painting the brick building in which Ensemble Stage uses two rooms the same color as the Community Learning Center. This would be included in the budget amendment. Council Member VonCanon motioned to approve Budget Amendment #201809-01 recognizing funds in the amount of \$36,000, from private donations, to be spent on the Historic Banner Elk School Fund 55, expensed to building maintenance. Council Member Bolick seconded. All were in favor. No one opposed.

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

At 8:45 p.m. Council Member Dunn motioned to adjourn the September 2018 Town Council meeting. Council Member Tufts seconded the motion. All were in favor. No one opposed.

**Adjourn**

The Banner Elk Town Council meeting adjourned at 8:45 p.m.

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Mayor Brenda Lyerly

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Attested

Approved: October 8, 2018