

AMENDED AT APRIL 13, 2013 MEETING

**BANNER ELK TOWN COUNCIL
March 11, 2013
MINUTES**

The Banner Elk Town Council met Monday, March 11, 2013 at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

Council Members present: Mayor Brenda Lyerly, Gail Draughon, Charlie VonCanon, Allen Bolick. David Lecka and Robert Tufts were absent.

Staff present: Town Manager Rick Owen, Chief Bill Burleson, Lt. Byron Clawson, Cheryl Buchanan, Steve Smith and Town Attorney Four Eggers

Others present: Rebecca Bolick, Penny VonCanon, Derek Goddard, Ted Silver, Larry Cotton, Reid Stewart, Jamie Shell and other interested parties.

Call Meeting to Order

At 6:00 p.m. Mayor Brenda Lyerly called the regular monthly meeting for March 2013 to order.

Pledge of Allegiance

Mayor Lyerly led those in attendance in the Pledge of Allegiance.

Invocation

Council member Bolick opened the meeting with prayer.

Public Hearing – Incubator Ordinance Amendment

Mayor Lyerly opened the public hearing on the Incubator Ordinance Amendment. Cheryl Buchanan addressed council. She noted that this applies to Section 922, conditional use for an incubator. The planning board wants to amend this ordinance to allow a new business, following a successful three year trial period, to convert to an anchor business. This amendment doesn't allow an anchor business to digress. They have to be careful of whom they choose to be their anchor business plus they can't exceed the 30% rule of floor space. Mr. Eggers also made several suggestions to the planning board to revise some of the text/wording to clarify the ordinance. Mr. Owen noted to the council that the board added the conditional use to the incubator for the brewery. Ms. Buchanan stated that it was conditional use in the beginning. However, it was removed from the table of uses, but that in the incubator ordinance there is a list of permitted uses. Anything beyond those permitted uses is considered "conditional" which has to come before the town's planning board and board of adjustment. Mayor Lyerly asked if there were any public comments on this amendment. Council member VonCanon asked about radio and television stations and how the town would handle antenna and that type of equipment. Ms. Buchanan stated that it was set up to be digital. There being no other questions, Mayor Lyerly closed the public hearing.

Approval of the Minutes

Mayor Lyerly asked council for a motion to approve the February 2013 minutes. Council member Draughon motioned to approve the minutes as written. Council member VonCanon provided a second. The February 2013 minutes were approved with all in favor and no one opposed.

Approval of the Stated Agenda

Mayor Lyerly asked council for approval to add item #7 to the agenda which was High Country Waste Solutions. Mr. Owen stated that it would involve a discussion regarding their services. Council member Bolick made a motion to add item #7 High Country Waste Solutions to the March agenda. Council member VonCanon seconded the motion. The amended agenda passed with all in favor.

Public Comments

Mayor Lyerly noted that there were two people who will be speaking at this evening's meeting. Mayor Lyerly called upon Ted Silver. Mr. Silver thanked council and the planning board for all their efforts in working with the county on the incubator ordinance and thanked council for working on the QR codes and the alternative energy ordinances. He stated that it speaks well for the town and everything council is doing for the community. Mr. Silver reported that he is now teaching two courses at Lees-McRae on a full academic program for a cycling minor and that Dr. Buxton appointed him chairman of the Lees-McRae bicycle advisory council. He stated that Lees-McRae and Banner Elk received national recognition this past week at the National Bike Summit in Washington DC where he took six students who represented the college and the town. They met with several North Carolina government representatives and their staff (Senator Burr, Representatives Meadows and McHenry, etc.) Council member VonCanon thanked Mr. Silver for being an ambassador for this function and taking the six students to Washington. He asked how did the group compare in size to the other groups that were there. Mr. Silver stated that we were the only organized group there. Mayor Lyerly congratulated Mr. Silver on his appointment.

Mayor Lyerly called upon Larry Cotton. Mr. Cotton stated that he was here to show support towards the town's efforts in removing the water drain pipe on Dogwood Road in the Crooked Creek subdivision where it affects ten houses and several lots in addition to the park walkway. Mr. Cotton distributed several photographs and noted that they speak for themselves. Council member VonCanon stated that he understands the water runoff and what it does but asked if snow causes the same problems. Mr. Cotton stated that it all comes their way in varying degrees. He noted that if it wasn't for the berm that the town made for him after the flood of 2004, his back yard would be flooded all the time. Mayor Lyerly asked if there was a recommendation to eliminate this problem. Mr. Owen noted that Derek Goddard will be addressing this issue this evening under item number three. Mr. Cotton stated that he supports the town in making a fix to this problem. Mayor Lyerly thanked Mr. Cotton.

Incubator Ordinance Amendment

Mayor Lyerly asked if there were any further questions regarding this ordinance amendment before we vote. Council member Draughon stated she is very much opposed to most of the additions and that it under cuts our zoning. Ms. Buchanan noted that the items in red are the changes, but the other items have been in this ordinance for a while. Council member Draughon said she understood that. Council member VonCanon made a motion to accept the ordinance amendment as written. Council member Bolick seconded. Council member Draughon opposed. Mayor Lyerly stated that the motion carries.

Tax Release

Cheryl Buchanan reported to council that BB&T made a tax payment directly into the town's bank account without any notification. She stated that Steve Smith discovered this deposit when he received the bank statement in February. The deposit was posted on January 3rd. The town in the meantime posted interest and penalty charges on January 7th. Ms. Buchanan stated that penalty and interest shouldn't be charged and that the town needs to release these monies. Council member VonCanon made a motion to approve the tax release. Council member Draughon seconded. All were in favor. No one opposed.

Dogwood Road Stormwater Project

Mr. Derek Goddard with Blue Ridge Environmental addressed council and Mr. Cotton's concerns. He stated that approximately one year ago he met with Mr. Cotton, Council member Bolick and Town Manager Rick Owen. They examined the storm water runoff at Dogwood and the source of the problem. Mr. Goddard laid out an aerial photograph of the area. He stated that all the runoff gets captured in numerous areas (ditches, pipes, etc.) and gets funneled to an area along a roadside ditch at the top of Dogwood where it makes a big curve, disburses into the woods and into a larger ditch behind the lots at Crooked Creek. Dogwood Road is being eroded away from all the stormwater runoff and also spring water drainage. One of the issues in solving the problem is a regulatory berm or compliance berm in which we have to involve the Corps of Engineers. We met with the Corps of Engineers, conducted a preliminary meeting and came up with a proposal on how to separate what is the storm water from the natural spring water. The Corps of Engineers bought into our plan and approved it. Blue Ridge Environmental has a permit from the Corps of Engineers to install a "system" to separate the waters. He showed council the construction plans on how they will proceed using a junction wer box. Council member VonCanon asked Derek how the system will address sediment issues. Mr. Goddard stated that there will be maintenance involved through a 2-3 ft. man hole and the sediment will have to be removed from there. Mr. Goddard continued stating that the stormwater pipe will flow down the edge of Dogwood Road intersect at the edge Legger house where there is an existing stormwater system, which actually goes into a plunge pool at the greenway on down to the stormwater wetland. This water will be treated before it gets to Shawneehaw Creek. Mr. Goddard stated that in conjunction they plan on repairing a portion of the failing road where the stormwater found its way to a ditch. They are proposing a bank stabilization of rip rap and vegetation along with a curb section of inlets which will capture the stormwater that is running off of Dogwood Road. Mr. Goddard said this is a holistic stormwater plan for this section of

Dogwood Road. Council member VonCanon asked about the location of the box. His concern was with the snow plows. Derek said it would be located in the curve line. Mr. Cotton asked Mr. Goddard about seep water. Mr. Goddard then proceeded with the steps involved with this process. He stated that his company will produce bidding documents and that April 15th is our permit availability date. Work could begin after April 15th. Council member VonCanon asked what the box is composed of. Mr. Goddard said it will be fabricated on site with materials from any drainage supply company and built per our specifications on the plans. It is 3'x3'x6'tall. Mayor Lyerly stated that that design was very impressive. Council member VonCanon was concerned about the maintenance involved in cleaning out the sediment pan. Mr. Smith didn't feel there would be a problem. He said that Beech Mountain has a back truck that could suck it out or a pressure washer type to blow it out. Mr. Goddard noted that the larger the box you make the heavier it is and harder to set. He stated that we need to be careful of the soil conditions in that area. He will talk to Justin to see if we can make sediment cleanout easier. No action was taken. Mr. Owen stated that he will sit down with Mr. Goddard to discuss the best approach on how to proceed with an approximate estimate when sending it out to bid.

Park Project Update

Mr. Goddard reported that the park project is proceeding with the grading of the site work which began on January 14. Since that date, the weather has not been cooperative. He noted that a pre-construction meeting was held. The town has installed erosion control measures and our staff supervised the work. We have monitored the site weekly regarding site and weather conditions. Progress has been slow. All the materials for the project are on site. Mr. Goddard spoke with Bill Cook with M&M Construction and their start finish time is two weeks once they have a period of good weather. He noted that he will keep the town informed and updated of all progress. Mayor Lyerly asked that as soon as the project restarts, will the one entrance be closed. Mr. Goddard stated yes. Mayor Lyerly suggests that the town report the closure of the entrance in the paper. Mr. Owen noted that there will be signage installed in the area to inform citizens. Mayor Lyerly thanked Mr. Goddard and stated that the town appreciates all his efforts. Council member VonCanon noted that he examined the culverts that will be placed under the greenway by the barn. He asked who will decide on what trees will be removed and what trees stay? Mr. Goddard said it will be a combined effort. We will work closely with the contractor and town staff. Council member VonCanon stated that he likes the natural look of paths and walkways. He noted that the culverts are ugly and asked if there was a way to camouflage them so they are not seen. Mr. Goddard stated that their intention is to shorten them for one and to be honest it will be reevaluated when it gets to that stage (yet to be determined). Council member Bolick stated that at one time there were discussions regarding the seasonal usage of the park (i.e. Wooly Worm Festival). Mr. Owen stated that he has had no further contact with the Wooly Worm Committee since their last meeting with town council. At one point they discussed making a financial investment into the project. Mayor Lyerly asked how much money were we talking about. Mr. Owen stated between \$50,000-\$100,000 to improve the bridge, stage and provide electricity. Their concern was how to get vehicles into that park area. Council member Bolick asked if their will be electricity supplied to the park extension. Mr. Owen stated that Mr. Goddard is getting quotes and stated that we want to have lighting at least on one side of the track. For now, conduit will be installed and later we will have the ability to add specific

lighting. Mr. Goddard reported that in regards to the building portion of the project, he is working with the low bidder and is hoping to give council an update at next month's meeting.

Budget Amendment

Mr. Steve Smith reported that the town paid \$35,456.00 to the NC Employment Security Division for former employees who received unemployment payments for the year ending June 30, 2012. The town operates differently from a full profit business. Mayor Lyerly asked how long will this continue. Mr. Smith noted that the town has no way of knowing when or if a former employee finds a new job. Mr. Eggers stated that the law was recently reformed. For some time, a person could draw unemployment for up to 99 weeks which is almost two years. Recently the state, in order to close budget gaps, has cut the number of weeks that people could draw as well as cut the maximum weekly amount collected. He stated that it has been significantly reduced. Mayor Lyerly asked if there were any questions or discussions. Council member Bolick made a motion to grant the budget amendment. Council member Draughon seconded the motion. All were in favor. No one opposed.

Attic Design Lease

Mr. Owen stated that the town rents space to Bob Mann for his architectural practice in the back of town hall. He noted that the contract has been written up for this year showing an increase of 2.1% based on the CPI for the last calendar year which has been done in prior years based upon the lease agreement. Mr. Owen stated that Bob and Janna asked if they should be here this evening and he told them that council was familiar with them and the lease agreement and he would be happy to answer any questions on their behalf. Council member VonCanon asked if the lease agreement was written the same as last year. Mr. Owen noted that it was the same except for the lease amount. Council member VonCanon stated that it was a good lease and very comprehensive. Mayor Lyerly asked if council members have read the lease and are aware that it will increase 2.1%. She asked for a motion. Council member VonCanon made a motion to accept the lease for another year. Council member Bolick seconded. All were in favor. No one opposed.

High Country Waste Solutions

Mr. Owen thanked the mayor for adding this item to the agenda. Mr. Owen reported that he has information from Reid Stewart. He noted that he and Reid have been discussing the renewal of their contract and its terms. Reid put together a proposal on what their current services are, who they are, their services and procedures, future service improvements, current pricing and their investment in the town. Mr. Owen stated that they also discussed a rate increase for next year for commercial customers. Mr. Owen noted that the goal this evening is to go over the proposal with council and collect feedback to make sure the town is headed in the right direction. He noted that their contract is up at the end of April so at next month's meeting we will need to approve a new contract and that will give us enough time to have it written up and reviewed by Four Eggers. Mr. Reid Stewart reported to council. He apologized that Zoe Schmidinger, their sales manager, wasn't able to attend this evening's meeting due to illness in the family. Mr. Stewart reviewed with council the team of High Country Waste Solutions along with their background. He went over their services and procedures, what sets them apart from their competition and what they offer the town that hasn't been offered before. He noted that their

biggest honor is acting as billing agent for the town which eases the burden on town staff. He stated that Rick asked him for a list of future service improvements that his company can provide. Mr. Stewart is excited about being able to offer curbside recycling. He stated that we currently provide this service to the citizens of Jefferson and have about 300 active participants, so the pricing structure that is mentioned in the proposal is an introductory pricing. If we gain more participants, he stated, the fee may be reduced. He noted that High Country Waste currently services ABC permitting which is now required by the State of North Carolina. He stated that his firm will also offer brush clean up services, offering it twice a year. He said that his company would work with the town to come up with spring and fall dates. An additional clean up service will be offered to residents at their request for a fee of \$200 per household. Mr. Stewart reported that he had discussions with Lees-McRae for setting up a central recycling center on campus, a system similar to the one located at Sugar Mountain. Mayor Lyerly asked if this center would be strictly for Lees-McRae or would it include the town. He noted that Rick Owen approached him regarding the town's recycling in key locations around town. He stated that locations at the post office and the park currently offer recycling, but noted that especially in the park he found that the containers were filled with 95% trash. He noted that they are looking at options for containers with certain size openings with proper signage. Mr. Stewart reported that once the town goes to the new water billing format, he hopes to have his company included in the newsletter helping to keep town residents informed on service offerings. Mr. Stewart showed council a chart showing the fees charged to the town by our competitor in 2009. Currently, even after a price increase at the fall of 2011, Mr. Stewart noted that his company is still less than \$1,000 in comparable services. Mr. Stewart stated that even with higher fuel prices, his company is still trying to save the town money. He said that in order to afford the soaring fuel prices the price increase that we are proposing is \$440.50 per month spread out through the commercial businesses (i.e. Lowes Home Improvement, Dollar General, etc.), but does not include residential customers. Council member VonCanon asked if his company collects the grease from restaurants. Mr. Stewart replied that they do not, but is currently working on a few merger acquisitions within the state, as an option. Mr. Owen stated to council that the key points in this new contract are the future improvements to service the town and that the new contract would reflect the 9% increase beginning May 1st. He also noted that the dumpster customers are paying substantially less than they were in 2009. Mayor Lyerly thanked Mr. Stewart for coming and stated that council would have a contract and vote at next month's meeting. Mr. Owen stated that he is proposing to council a three year contract with one year renewals after that, but of course, he will discuss this with Mr. Eggers at length.

Manager's Update

Mr. Owen reported to council that the financial report, police report, planning, zoning and tax collection reports were included in their packets along with minutes from the planning board, board of adjustment, Preserve America and ABC board. Mr. Owen asked if there were any questions. Mayor Lyerly referred to the planning board meeting minutes and the section that was highlighted. She asked if those items were addressed and answered. Mr. Owen stated that the minutes they have in their packets are draft minutes which haven't been approved. He noted that the items highlighted are things that Ms Buchanan is working on. Mr. Eggers stated that he sent Cheryl an email addressing those items. Mr. Owen asked that if council wants to start receiving

approved minutes from the meetings to let him know. Mayor Lyerly asked council their preference. She told Rick on behalf of the council that receiving the draft is acceptable.

Mr. Owen reported that staff has been working on a new utility bill. He showed them a copy of the draft which will fit into an envelope. The company that the town is working with is South Data. The company will do the design services, printing services, computer processing and billing data. They will also print the bills, fold them, insert them into the envelopes and deliver the bills to the post office. What staff will do is prepare the invoices within 30 days and maintain a postage escrow to cover the cost of postage and that postage will be figured monthly depending how many bills are sent out. The rates may change monthly depending on where the bills are mailed. Mr. Owen reported that there is no monthly charge from this company and no recurring fee. It is a set fee per piece plus the postage. There is no processing fee every month. The town will have a one year agreement with South Data with two one year renewals after that. Currently the town is paying approximately \$297.00 the way we are currently doing it (post card, staff running it through the postage meter, etc.). South Data's fee will be approximately \$452.00 per month which per our budget is an additional \$150.00 per month. He stated that the cost is at the high end if we don't get any break in postage. Mr. Owen hopes that the computer printing issues that we currently have will be eliminated and resolved along with issues with the post office, getting the cards delivered (some all lost in the mail, some are caught up in junk mail, some are returned to the town weeks later and late fees have already been issued, etc.). Mr. Owen feels that the town residents will receive better service, the printing will be clearer and the town will have the ability to insert additional town information (flyers, newsletters, etc.). He stated that another service that South Data offers that we are looking into is e-billing. Once customers are set up with South Data, the customers can go to their web site and opt into getting an e-bill versus a paper bill. The town has received this request several times. It is very complicated for us to offer it in-house. This way it will all be computerized and handled by South Data. The customer will then have the option, whatever will work best for the customer. If the e-bill is chosen then the town loses that postage cost. Theoretically, if we can get 300 of our customers to switch to e-bills, the town will break even. Mr. Owen stated that the town would like to start this process next month. Mayor Lyerly asked what the cost would be. Mr. Owen stated that the maximum yearly additional cost would be \$1,800.00. It could be as low as \$1,000.00 if the e-bill takes off. Council member VonCanon stated that it sounds like with the mechanical problems the town has in-house, the hours that are spent in getting these bills out and the handling at the post office, this sounds like a win-win situation. Mayor Lyerly stated that the selling point for her is the e-bill; that if more people use it there would be a savings to the town. Mayor Lyerly asked if the company would charge additional money for inserts included with the bill. Mr. Owen stated that they would, but the postage would remain the same. Council member VonCanon stated that in the long run he believes it will be more efficient and cost less. Mayor Lyerly asked if the town could insert their own messages in the empty space provided on the bill and if there would be any additional charge for that. Mr. Owen stated that the town could use the empty space for notices, etc. and there would be no additional charge. Mayor Lyerly asked if we needed a motion on this. Mr. Owen replied that there is a contract on the table and we would need a motion to enter into the agreement. Council member VonCanon made a motion to

approve the water bill change subject to approval by town attorney, Four Eggers. Council member Bolick seconded. All were in favor. No one opposed.

Mr. Owen handed out another piece of paper and stated that it was regarding another project that someone brought to his attention from the University of Tennessee-Knoxville. They discussed with Rick a new proposed project which is called the Sun Shot Roof Top Solar Challenge. They received a grant to explore the shortcomings in solar implementation throughout the TDA region and they selected four cities that they worked with to develop programs to help initiate solar energy especially residential and small usage. They had success with their first portion of this grant so they are looking to broadening their area across the TDA region and they are trying to reach out to sub-providers of TDA such as Mountain Electric. They identified a few smaller communities across the region that they want to work with to identify solar policy. Some of their outcomes are: further refinement, discernment and deception of model processes, best practices in the field of solar planning zoning and historic preservation, financing, increase outreach and partnership with realtors and appraisers and other real property professionals, expansion of a smart phone app which allows people to identify areas that are solar friendly, solar information, permitting, etc. Mr. Owen stated that the reason they contacted the town is that Banner Elk is very progressive in this area for a rural community so they would like to know if the town would like to partner with them. This grant that they are looking for is a \$1.6 million dollar grant which is also a two and half year grant cycle that they would be working on. Throughout that time period the only commitment that the town would need to make is the commitment to use town staff time at a value of \$3,000. Mr. Owen stated that it is up to us to determine what our time is worth. We would need to provide meeting space for them when they are in town to hold meetings regionally with the town and Mountain Electric in order to discuss policies, procedures and processes that they are going through. Mr. Owen stated that he needs from council a commitment to using staff time. Council member VonCanon said that it would help the town and Mayor Lyerly agreed. Council members all agreed that it is a good project for the town.

Mr. Owen reminded council that Friday, March 15 is the open house that the town is having for Bill Burleson's retirement from 4:00 until 7:00. He hopes everyone can come by to thank the Chief for his service. Town staff will be sending our flyers around town along with emails announcing the open house. Mr. Owen also gave council a copy of a letter the mayor received from a citizen in Crooked Creek, thanking Chief Burleson for his dedication and leadership. Mayor Lyerly stated that it was a very nice letter and that we too appreciate Chief Bill and his service to the town.

Mr. Owen reported that next month he will be asking council to entertain some budget workshops so asked them to bring their calendars.

Mayor Lyerly asked if there was any other business.

At 7:35 p.m. council member Von Canon motioned to have council proceed to closed session pursuant to NCGS 143-318.11 (a)(3). Council member Draughon seconded. All were in favor. No one opposed.

Mayor Lyerly thanked everyone for coming.

Council returned to open session at 8:10 p.m.

Other Business

There was no other business.

At 8:15 p.m. Council member Draughon made a motion to adjourn the March meeting. Council member Bolick seconded the motion. All were in favor

Adjourn

The town council meeting adjourned at 8:16 p.m.

Mayor Brenda Lyerly

Steven R. Smith
Finance Officer/Clerk

Approved: April 8, 2013