

BANNER ELK TOWN COUNCIL
September 12, 2011
MINUTES

The Banner Elk Town Council met Monday, September 12, 2011 at 7:00 p.m. at Banner Elk Town Hall for their regular scheduled meeting.

Council Members present: Mayor Pro Tempore Brenda Lyerly, Gail Draughon, and Bud Hahn.

Staff present: Town Manager Rick Owen, Steve Smith, Chief Bill Burlison and Town Attorney Kim Eggers.

Others present: Allen Bolick, Charlie and Penny VonCanon, Ted Silver, Donna Dicks, Larry Cotton, Chief of the Banner Elk Volunteer Fire Department, John Perry, Seth Perry (Scouts), Sarah Brewer, Jamie Shell of the Avery Journal and other interested parties.

Call Meeting to Order

At 7:00 p.m. Mayor Pro Tempore Brenda Lyerly called the regular monthly meeting for September 2011 to order.

Pledge of Allegiance

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

Invocation

Chief Bill Burlison opened with prayer.

Approval of the Minutes

Mayor Pro Tempore Lyerly asked council for a motion to approve the August 2011 minutes. Council member Draughon motioned to approve the minutes as written. Council member Hahn provided a second. The August minutes passed with all in favor, none opposed.

Approval of the Stated Agenda

Mayor Pro Tempore Lyerly asked council to approve the September agenda as stated. Mr. Owen asked that an additional item be added to the agenda: a resolution to dispense with qualifications based selection process for engineering. Ms. Draughon made a motion to approve the agenda to include an additional item number 7. Mr. Hahn seconded the motion. The revised agenda passed with all in favor.

Citizen Concerns

Ted Silver addressed council stating that he met with Bret Gardella, Avery County's new economic development director, concerning the old elementary school. Mr. Gardella will be presenting a plan to the county commissioners for use of the building. Mr. Silver expressed concern that the plan did not include community use and that Mr. Gardella had not discussed his plan with the Town of Banner Elk. Mr. Silver would like for the council to deliberate on the

ideas that the Friends of the Historic Banner Elk School have for the old school when they meet with Bret Gardella.

ABC Store Audit

Sarah Brewer addressed council. She stated that their fiscal year ended June 30, 2011. She noted that last year sales were \$2.6 million and this year sales were \$2.5 million, down \$76,000 for the year. However, Ms. Brewer stated that overall gross profits maintained an even, steady pace. She shared with council that their ABC Board was formed in 1998 (Banner Elk, Seven Devils, Sugar Mountain) and over the 13 years, the board overall has given back to the three towns \$2,457,502 which includes law enforcement, alcohol education programs, and they give 7% to New River Mental Health for education. Ms. Brewer noted that they were also working with all three towns on a law enforcement contract. She said that they never had to have a written contract, but now they do because of new rules being imposed by the state. She noted that there were several new regulations placed upon them such as the above mentioned law enforcement contract, along with an ethics policy, a travel policy and more stringent budget rules. Ms. Brewer noted that the good news from her stand point was that the governor backed away from the privatization of ABC stores in North Carolina which would hurt local governments. Council member Hahn asked Sarah Brewer if these new regulations helped or hurt the ABC stores. Sarah stated that overall she felt they were better and more efficient. Ms. Brewer also noted that last year there was an increase in excise tax which went from 25% to 30% which comes right off the top from what they make each month. Sales tax was also raised from 7% to 8%. Balemment fees have also increased. Mayor Pro Tem Lyerly thanked Sarah Brewer for the audit report and for her good work. No action was taken.

ABC Law Enforcement Agreement

Rick Owen addressed council and referred them to the agreement that was included in their packets. He stated that the agreement has been reworked and reviewed by all three towns' attorneys along with the other town managers and staff members. Mr. Owen stated that he felt comfortable with the wording of this agreement. He noted that there is no major liability to any of the towns given the store is owned by the three towns and it includes a cancellation clause. Chief Bill Burluson questioned the agreement due to new legislation and new enforcement issues, but Mr. Owen noted that this agreement does provide for additional funds that would cover such additional enforcement issues. Chief Bill Burluson noted that the state is requiring more monthly reports and compliance checks which will involve more work for his and the other towns' departments. Council member Bud Hahn made a motion to approve the Contract for ABC Law Enforcement. Council member Gail Draughon seconded. All were in favor.

Mayor Pro Tem Lyerly paused the meeting to recognize and welcome members of the Boy Scouts of the Banner Elk area: Seth Barry, Adam Hurd, Jake McGormick and Wayne Hurd the scout leader.

Fire Department Agreement

Mr. Owen discussed the agreement before council. He stated that the agreement is for the provision of fire protection and emergency services within the town limits. The agreement is standard and provides automatic renewal, which has previously been approved by council in

prior years. He also stated that the agreement before council does not refer to any money exchanging hands, but that this agreement refers to the services the fire department provides and is a safeguard to prevent the agreement from unintentionally expiring. The town staff is currently working on a second agreement to establish a more formal allocation of funds for the BEVFD and the fire commission. Mayor Pro Tem Lyerly stated that for the record, the town has always supported our local fire department. Mr. Owen concurred and noted that this second agreement is just a more formal declaration. Council member Draughon made a motion to approve the Banner Elk Fire Department Agreement. Council member Hahn seconded. All were in favor.

Call for Public Hearing – Zoning of New School Property

At last month's meeting the council called for a public hearing for this item. Mr. Owen addressed council apologizing for not getting this item advertised in a timely fashion so that adjoining property owners would be notified and asked council to call for a public hearing at the October meeting. Mr. Hahn made a motion to set a public hearing at October's meeting to designate zoning as educational for the new Banner Elk School. Ms. Draughon seconded. All were in favor for a public hearing at October's meeting.

Call for Public Hearing – Sign Ordinance Amendments

Mr. Owen addressed council that it was the town's continued quest to clarify the sign ordinance and he asked council for a public hearing at the October meeting. Council member Hahn made a motion to set a public hearing at October's meeting to approve the changes set forth in the sign ordinance amendments. Council member Draughon seconded. All were in favor

Bicycle Committee Report

Mayor Pro Tempore Lyerly called upon Mr. Ted Silver, chairman of the Bicycle Pedestrian Committee, to give council an update on the monthly meeting of the BPC which took place on September 1st. Mr. Silver reported that the committee discussed greenway issues and the necessary right of ways needed, along with new signage for the greenways. He talked with Town Manager Rick Owen, who was present at the meeting, about the informational signage issue, the choices and budget considerations. Mr. Silver stated that on October 15 and 16, Lees McRae will be holding collegiate mountain bike finals along campus areas, the same weekend as Woolly Worm and Valle Crucis Fair. He stated that Lees McRae is aware of the local events and that the bicyclists will not be racing through town.

Resolution to Exempt Park Expansion Project from Qualifications.

Mr. Owen stated that typically the standard operating procedure is to put out a request for qualifications to engineers for town projects. The engineers interested in the work would send the town their qualifications packet whereby the town would then review all applicants and choose the most qualified for the project. N. C. general statutes authorize local government to exempt, in writing, particular projects from these provisions if the local government states the reasons for the exemption. Mr. Owen is asking council to put in writing that we are exempting ourselves from this process for the park expansion (PARTF) project. It is the town's opinion that we would like to work with Derek Goddard of Blue Ridge Environmental due to his working relationship with the town, his understanding of the town's environment and the park in

particular. Council member Hahn made a motion to accept the resolution to exempt park expansion project from qualifications. Council member Draughon seconded. All were in favor.

Mayor Pro Tem Lyerly paused the meeting to introduce to council and members present Ms. Kim Eggers, who was at the meeting as the town's legal counsel. She thanked Ms. Eggers for being present.

Manager's Update

Town Manger Rick Owen reported that committee reports were in the councils' packets.

Mr. Owen stated that the Avery County Commissioners will be holding a meeting on Thursday, September 15, 2011 at 4:00 p.m. to hear a presentation from the new economic development director for the county regarding the use of the old school property. The meeting is open to the public.

Mr. Owen reported that on Friday, September 16 (3:00 until 10:00 p.m.) and Saturday, September 17 (1:00 until 10:00 p.m.) there will be an event here in town called Let It Be Music Festival. It is a project hosted by the seniors of Lees McRae in which a number of bands will be performing in front of Tate dormitory. The proceeds will benefit the Blue Ridge Wildlife Institute at Lees McRae. No noise permit was issued because their plan is to have all music finish at 10:00 p.m.

Mr. Owen also reported that another event in Banner Elk will be forthcoming. It will be called Banner Elk Holiday Market to be held on October 8th and 9th at the park and around town hall. The specifics are still being worked out.

Mr. Owen stated that Bud Hahn asked the town to make a contribution to the Heritage Foundation. He thereby notified council that the town contributed Mr. Hahn's \$750.00 from the council's discretionary contingency fund.

Mr. Owen also stated that Gail Draughon would like the town to make her contribution towards historical markers around town.

Mr. Owen reported to council an issue at Elkmont. At the beginning of development, Elkmont was responsible for their own infrastructure until it was turned over to the town. They installed large pumps at the base of the development to pump water up to their tank site. It has now come to their attention that the electrical bill is still in their name. Mr. Owen notified council that Elkmont wants the town to repay the power bills from 2008 to the present totaling \$9,555.00 which averages between \$350 to \$400 per month. The town is obligated to repay Elkmont. This bill should have been put in the town's name when the town accepted the infrastructure.

Mr. Owen reported to council that the town has been asked to pave a portion of Mill Pond Road, the section from the dam leading to the wildlife center. A temporary center now exists which is in violation of a conditional use permit. Dr. Buxton told Mr. Owen that they have a potential donor to construct a new wildlife center and one of the conditions is to have the center more

accessible to the public. At present the road is in disrepair and is difficult to maintain. Dr. Buxton requested the town to pave that portion of the road. The cost would be approximately \$12,900. Mayor Pro Tem Lyerly noted that the wildlife center adds to the town and a better road is needed for people to get to it. Ms. Lyerly stated that council was in favor of the paving.

Mr. Owen stated that there have been several local meetings held regarding the widening of Highway 105 from Linville to Boone. Mr. Owen provided council with information gathered at these community meetings so they could review it and provide feedback to NCDOT.

Mayor Pro Tem Lyerly asked if there was any other business. She thanked everyone for coming to the meeting and appreciated everyone's interest.

At 7:41 p.m. council member Hahn motioned to have council proceed to closed session. Council member Draughon seconded.

At 8:28 p.m. Mr. Hahn motioned to end the closed session portion of the meeting. Ms. Draughon seconded.

Adjourn

The town council meeting adjourned at 8:29 p.m.

Mayor Pro Tempore Brenda Lyerly

Steven R. Smith
Finance Officer/Clerk

Approved: October 10, 2011