

BANNER ELK TOWN COUNCIL

September 8, 2014

MINUTES

The Banner Elk Town Council met Monday, September 8, 2014, at 6:00 p.m. at the Banner Elk Town Hall for their regular scheduled meeting.

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

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

Others present: Donna and Bill Dicks, Penny VonCanon, Rebecca Bolick, Jim Swinkola, Angelo Accetturo, Ted Silver, Mari-liis Smyth, Tom McMurray, John Wright and other interested parties.

Call Meeting to Order

At 6:00 p.m. Mayor Brenda Lyerly called the regular monthly meeting for September 2014 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 Council for a motion to approve the August 2014 town council minutes. Council Member Lecka motioned to approve the council minutes. Council Member Tufts seconded the motion. All were in favor and no one opposed.

Approval of the Stated Agenda

Mayor Lyerly asked Council for a motion to approve the September agenda as stated. Council Member VonCanon motioned to approve the agenda as stated. Council Member Dunn seconded. All were in favor. No one opposed.

Public Comments

Mayor Lyerly noted that two people asked to speak at this evening's meeting. She called upon Jim Swinkola. Mr. Swinkola stated that Wildcat Lake has attracted many people in 2014. Fishing is year round thanks to the State for stocking it and people of all kind, children, grandparents, even the handicapped, are fishing. Mr. Swinkola also stated that Wildcat Lake serves as a picnic site with its shelters, attracting church groups, families and soon there will be a handicapped shelter. Wildcat lake offers many activities including lifeguard supervised

swimming, canoeing and just general playing and playing in the sand. Mr. Swinkola summed up by stating that Banner Elk has a treasure in their town, Wildcat Lake.

Mayor Lyerly called upon Angelo Accetturo. Mr. Accetturo asked council if they had any questions to ask him directly regarding the Elk Creek project. Mayor Lyerly posed the question to council members. No questions were asked.

Elk Creek Rezoning

Mayor Lyerly called upon Cheryl Buchanan to report on this subject. Ms. Buchanan stated that the Planning Board met last week and discussed the rezoning of Elk Creek. There was a split vote from the Planning Board (2 were for and 2 were against with one member abstaining). She noted that it is hard to interpret their recommendation based on their vote.

Mayor Lyerly stated that the Zoning Administrator's recommendations are included in council's agenda packets and hoped that each member visited the property in question. She asked council how they wished to proceed. Council Member Tufts asked if the permits were granted that were applied for by the Corps of Engineers. Ms. Buchanan reported that the Town does have the 404 Permit (wetlands) which is the Corps of Engineers. The 401 Permit (stormwater) has not been granted. This comes from the State and a decision has not been made. The State is requiring more information. Council Member VonCanon reported that the Town has a lengthy land-use plan, the Town's zoning regulations have been worked on for several years and the Town has the enforcement from the Planning Board and Board of Adjustment to uphold the zoning requirements as it pertains to the Town's best interests. Council Member VonCanon motioned to rezone the property from R-1 to R-2 because of the Town's ability to make sure it is done correctly. Council Member Lecka seconded the motion. Council Member Bolick noted that in every meeting that council has had including the Public Hearing, the Town's citizens spoke out asking that we not rush into this issue. They asked us to proceed with caution. Council Member Tufts asked if the ownership of the bridge or the right-of-way across the bridge has been resolved. Ms. Buchanan noted it was resolved. It was conveyed to the first developers and it goes with the property. Council Member Tufts asked for clarification if the request to rezone is for the entire property. Ms. Buchanan noted that the request was just for the bottom area, not the top portion. The top is already recorded as R-1 with single family lots already divided and recorded. Mayor Lyerly asked who was in favor of the motion and asked if anyone opposed. Council Member Bolick opposed. Mayor Lyerly reported that the motion has passed to rezone the property.

Discuss Historic Banner Elk School Property

Mr. Owen recalled that the Avery County Commissioners made an offer to the Town of Banner Elk to purchase the Historic Banner Elk School Property for \$1,000,000 for a 12-year term with no interest. The Town would agree to pay the water and sewer bill for the new elementary school for 12 years. Mr. Owen noted that last Friday (September 5th) Town Council held a special meeting to determine if Council was interested in the proposal and the terms of the agreement. Council showed their interest by approving a Resolution of Intent which will go to the Local Government Commission. Mr. Owen stated that the resolution is the beginning of the approval process if Council continues to be interested. The first portion is the Resolution of

Intent (Council is interested in the purchase) and the second portion is to call for a Public Hearing. The Public Hearing is set for Monday, September 22, 2014 at 6:00 p.m. in the Council Chambers. Mr. Owen noted that the purpose of the Public Hearing is to consider the financing and contract agreement. This Public Hearing is part of the approval process of the Local Government Commission. They will expect to see minutes from the meeting based on what public input council receives at the Public Hearing. The Town will then file the application with the LGC and we are hoping to be on the LGC's November calendar (11-4-14). At this time the Town will expect to receive approval from the LGC or feedback if there are issues. Mr. Owen stated that staff is continuing with letters, forms, etc. to keep the process moving. Council Member Lecka asked if the Town received from the County monthly maintenance costs for the building. Mr. Owen stated we do have a breakdown of the costs associated with the "incubator" and he will provide the report to Council shortly. He also reported that one of the last minute additions to the contract was that the Town would take possession of the building prior to taking ownership of the building. October 1st is the date the Town would actually become the landlord of the building which means we would be responsible for the two tenants in the building and events that take place on the property (i.e. Woolley Worm). The Town will also be collecting rent from the two tenants which will help offset the expenses. Mr. Owen also stated that the building has a security/camera system which the police department can view off-site.

Mayors Term of Office

Mr. Owen stated that at the March 2014 Council meeting, Council Member Dunn introduced the topic of the mayor's term of office, changing it from 2 years to 4 years. The subject was also discussed at a meeting held in Lenoir in which several council members attended. Mr. Owen noted that Mr. Eggers has prepared a Resolution of Intent to show the desire for changing the term of office which would take effect following a public hearing and at the next election cycle. Council Member Dunn motioned to have a Public Hearing at Council's October meeting. Council Member Tufts seconded the motion. All were in favor. No one opposed.

2012 Local Water Supply Plan Approval

Mr. Owen distributed the 2012 Local Water Supply Plan. He noted that the Town is required to complete this form each year. The NC Department of Environment and Natural Resources has reviewed and approved the Town's 2012 Plan and is requesting that Town Council approve and adopt the plan by way of a resolution. It is already approved by the State. Mr. Owen noted that the plan is available to view on line at the link provided. It is supposed to be a planning document to help the Town keep up with its water system, its supply sources and its uses. Council Member Tufts motioned to approve the resolution. Council Member Lecka seconded the motion. All were in favor. No one opposed.

Manager's Update

Mr. Owen reported that included in Council Member's packets were the financial report, police report, planning, zoning and tax collection report. Also included is a copy of the Planning Board Meeting minutes of September 2, 2014 and the High Country ABC Board Meeting minutes for July 10, 2014. Mr. Owen noted that if there were any questions regarding these reports to let him or staff know.

Park Expansion Update. Mr. Owen reported that the Town received its reimbursement in the amount of \$213,500. It is the closeout. The park had its inspection and Steve has the money in the bank. Council Member Tufts asked about the stone ring. Mr. Owen stated that he spoke with several people who came up with the idea of making it into a fire pit. He passed it by LuAnne, who conducted the inspection, and she thought a fire pit was a good idea. It would be by permit only issued by the Town. Staff will continue to look into the idea.

At 6:32 p.m. Council Member VonCanon motioned 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 6:56 p.m.

Other Business

Mr. Eggers addressed council as a matter of formality. He stated that the wording of a motion that Council may wish to consider would be to authorize the mayor and the clerk to enter into the Intergovernmental Purchase Agreement for the Historic Banner Elk Elementary School upon the terms and conditions as set forth in the agreement. Council Member Tufts motioned for the authorization. Council Member Dunn seconded. Mr. Eggers stated that the way the agreement is set up, because there may be delays in getting the LGC approval, the closing date is not technically required until March 1, 2015 and that is how long our due diligence period runs through. The plan is to have the property acquired and purchased before the end of November. Mr. Eggers stated that Council may want to have another vote further on stating that the Town has completed its due diligence and have the mayor sign and accept the deed. Mayor Lyerly asked if there was any further discussion. All were in favor of the motion. No one opposed.

Council Member Tufts questioned the storm water vault and whether it will ever be cleaned out. Mr. Owen agreed that something needs to be done with redoing and reworking the plan. There are several little projects that need to be worked out which involve additional costs and maintenance issues that arise from this purchase. Mr. Owen also talked to some TDA members concerning their involvement with this project.

Mr. Owen stated that he wants to get fixed in everyone's mind what the \$1,000,000 secures the town. People tend to focus just on the building. We need to change that thought to the fact that it sits on over 5 acres of property in town, the value of that land and what type of revenue it can bring into the town (Woolly Worm, Arts and Craft Fairs, etc.) and for all local businesses. Discussions continued regarding parking within the town (behind the fire department, in the field, etc.).

It was noted that Lees-McRae will be in session during Woolly Worm weekend which will affect parking.

There being no further business, at 7:25 p.m. Council Member VonCanon motioned to adjourn the September 2014 Town Council meeting. Council Member Bolick seconded the motion. All were in favor.

Adjourn

The Town Council meeting adjourned at 7:25 p.m.

Mayor Brenda Lyerly

Steven R. Smith
Finance Officer/Clerk

Approved: October 13, 2014