

BANNER ELK TOWN COUNCIL MEETING
FEBRUARY 10, 2025
MINUTES

The Banner Elk Town Council met on Monday, February 10, 2025, at 6:00 p.m.

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

Staff present: Town Manager Rick Owen, Public Services Director Justin Hodges, Chief Kevin Hodges, and Attorney Four Eggers.

Call Meeting to Order

At 6:00 pm Mayor Lyerly called the regular Town Council meeting of February 10, 2025, to order.

Pledge of Allegiance

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

Invocation

Council Member Charles VonCanon opened the meeting with prayer.

Public Hearing

Manager Owen stated that this Annexation Request is for the *Parcel 1858-1552-2667*, Banner Lowe, LLC, which is 13 acres beside Lowe's Hardware. The owner is discussing development but does not yet have a complete plan for consideration. The plan may come before the Planning Board next month. Council Member Tufts made the motion to open the Public Hearing and Council Member Dunn seconded the motion. There were no public comments. With no further discussion, Mayor Lyerly closed the public hearing.

Approval of Minutes

Mayor Lyerly asked for approval of the minutes from the January 13, 2025, Regular Meeting. Council Member VonCanon made the motion to approve those minutes and Council Member Lecka seconded the motion. The motion passed unanimously.

Public Comment

There was no public comment.

Approval of Stated Agenda

Mayor Lyerly asked for a motion to approve or amend the stated agenda. Council Member Lecka motioned to approve the agenda as stated and was seconded by Council Member Dunn. The motion passed unanimously.

Audit Presentation – Misty Watson

Misty Watson presented highlights of the Town's audit to the Council. She stated that the Town received an unmodified clean opinion. She noted that the general fund increased with continued strong investment earnings and continued sales tax distributions trending high. There are several special revenue funds that also increased including water and sewer revenues. She shared a pie chart that showed that a little over 50% of the Town's revenues were ad valorem taxes, 35% were unrestricted governmental, and investment earnings were a little over 9%. Ms. Watson overviewed the general fund expenditures: 40.7% public safety, 25.6% transportation, 23% general government, 1.8% Town debt

service. She highlighted that the funds available in the general fund are currently at \$3.4 million which is around 144% of total general fund expenditure for fiscal year 2024. The water and sewer unrestricted net position is also around \$3 million. She stated that per the LGC she needs to report general performance indicators, and the Town continues to have strong property tax collection at 97.34%. It also needs to be noted that the audit should have been submitted in October and is being submitted this week, due to the storm. Finally, Ms. Watson pointed out that the LGC would like to see the water and sewer infrastructure remaining life as fixed assets be at .5 and it is at .28. However, the current moneys being invested may alleviate that.

Mayor Lyerly thanked Ms. Watson for her hard work. A member of the audience asked if the information was available to the public and was told that he can find it on the website or if he comes by and requests it, he can view it in Town Hall, or it will be printed for him.

Manager Owen added that the numbers that show an increase in the unrestricted fund balance reflect the sales tax and investment revenue being high. Those are always very conservatively budgeted line items, as they can change for reason not in the Towns control. The expenditures numbers reflect expenditures that were budgeted and not spent for a variety of reasons. He expressed gratefulness for the money that the Town Council has chosen to keep in reserve that has allowed the Town to proceed to recover from the disaster.

Council Member Lecka expressed gratitude for Manager Owen and the Staff for their fiscal responsibility that has put the Town in strong financial standing.

Annexation Request for Banner Lowe1, LLC – Manager

Given that a plan for development of the property has yet to be made available, a motion was made by Council Member Dunn to table the Annexation of *Parcel: 1858-1522-2667*, Banner Lowe, LLC, at the Developer's request, and Council Member Tufts seconded the motion. The item will be placed on the April Agenda.

Consider Solid Waste Agreement Amendment– Manager

Attorney Eggers explained that the contract was originally adopted in 2019 and is being carried over. This is more favorable to the Town than others and the extension is also more favorable than other municipalities. This would be a three-year term with a one-year extension.

Council Member Tufts asked if they could raise rates over these shortened terms. Attorney Eggers and Manager Owen stated that there is a provision for them to do so and it is in the contract.

Mayor Lyerly asked for a motion to accept the Agreement Amendment. Council Member Lecka made a motion to accept this agreement and Council Member VonCanon seconded the motion. The motion passed unanimously.

Board Appointments – Manager

Manager Owen stated that there are 2 terms expiring on the Board of Adjustment and he has spoken to both Mr. Silver and Ms. Herdklotz and they are willing to renew their appointments. He suggested that Mr. David Tate move from in-town alternate to complete Deka Tate's in-town full appointment that has two years remaining.

Council Member VonCanon made a motion to approve the appointments and Council Member Tufts seconded the motion. Attorney Eggers stated that this motion will then send the appointment for Ms. Herdklotz to the County Commissioners, as it is an ETJ appointment which they approve. The motion passed unanimously.

Reporting of Unpaid Taxes - Manager

Manager Owen distributed a list of the individuals who have unpaid taxes from the prior year. This is a requirement by state statute before it is published in the local paper. People on the list will receive a 30 day notice to pay the tax prior to publication. Mayor Lyerly noted that many of them are not big numbers and Manager Owen explained that any unpaid taxes under \$5.00 are not billed but until they are paid or written off, they are on the printout. The total is a little over \$183,000.

Storm Recovery Update - Manager

Manager Owen shared that scheduling damage inspections with FEMA has begun. These inspections are of damages that have yet to be repaired. This would include the entryways to several communities, culverts, bridges, underground stormwater retention, cooling ponds, the park, greenway and other items. He stated that the Town is in a position to start projects as needed and has not had to depend on reimbursement to start other projects. They are inspecting for damages but also mitigations – opportunities to make things better than before or to make things more resilient in the future. Those mitigations need to wait until inspection is complete to increase the opportunity for funding. There are currently eighteen projects being prepared for submission for reimbursement.

Manager Owen stated that the Town has not yet asked FEMA for any money. He said the intention is to make sure that all of documentation is absolutely ready and does not put the Town in an appeal process.

The County is about to end debris pick up. All debris is supposed to be out at the road by the 23rd. They will spend the following month picking up that debris and then the contract will end. The goal for this decision is to stop the trash dumping that is happening along the roadways.

Council Member Lecka asked what the debris clean up should include. Ryan Cox with Insight, the consultant firm working with the Town, answered that the pick-up should be very detailed and is on the public right-of-way. He does not know when debris pick-up could happen for private property. Manager Owen stated that tomorrow is supposed to be the deadline for identifying damaged inventory, but it has been extended for another month. Ryan predicts there could be two more extensions before there is a hard deadline because finding a reasonable deadline is very challenging in a disaster. It is easier to extend the deadline for the entire state than for the community. It requires a letter versus multiple letters.

Mayor Lyerly asked why our FEMA coordinator is going to change. Ryan explained that there are permanent staff, floaters, and reservists. Disaster guidelines state that they can only stay at one location for a determined amount of time. Furthermore, reservists can only decline job calls three times in a row. He said that there will always be lines of communication that can support outside of the assigned coordinators. Council Member Lecka said that Insight's support and experience for navigating all of this is invaluable.

Manager's Update & Staff Reports

Town Manager Owen reported that there are two sets of staff reports. Included in these are the annual police report for 2024, two sets of minutes from the ABC store, the tax receivable reports, and an annual zoning permits report for 2024.

He asked the Council to plan budget meetings: a planning meeting at the end of March, and budget meetings the first week of May and the first week of June. The Council chose March 24 at 6:00, May 8 at 6:00, and June 5 at 6:00.

He reminded Council Members that the Council of Governments Banquet is coming up on March 7, and RSVP's need to be given to Nancy Owen.

Manager Owen reported that there are two opportunities for exceptions in FEMA and State procurement requirements. One is for micro-purchasing that can allow for an increase from \$10,000 to \$30,000 for certain small purchases and specific projects being worked on. The second opportunity is the Mini Brooks Act which regulates how the Town goes about receiving services related to professional services such as engineering and architecture. Normally all these services must be procured through a qualification-based selection process regardless of the dollar amount. The Town can exempt itself from this requirement up to a cost of \$50,000.

Manager Owen stated that he would like the Council to approve a motion to “direct the Town manager to use all statutory allowed means to facilitate projects related to Helene recovery. To include exemptions from certain requirements related to micro purchasing contracts and professional services contracts.

Attorney Eggers explained to the Council that this motion requests the Town Manager have the power to make micro-purchases and use the exemption for some engineering purchases without having to receive bids before proceeding. Council Member Dunn made a motion to accept the motion as read and Council Member Tufts seconded it. The motion passed unanimously. Attorney Eggers will prepare a resolution for future adoption stating the intent.

Ryan Cox asked if this could be written in the form of a policy that could be handed off to FEMA. Manager Owen said that the Town has a purchase policy in place, and this could be added to it.

Closed Session – Attorney Client Matters

Council Member VonCanon made a motion to go into closed session and Council Member Lecka seconded it. The motion passed unanimously.

Other Business

Council Member Dunn asked about plans to replace the guardrail at the Mill Pond and the deep rut just past Dobbins Road. Manager Owen said that DOT is not likely to get there soon and there is no longer enough shoulder to build on now. He is hoping to get a mitigation project in place to allow for protection of Town water and sewer lines in the road shoulder. Thereby creating a wider shoulder that may allow for sidewalks with curb and gutter to be built. This will be a long process working with FEMA and NCDOT to determine an allowable project and associated cost.

Mayor Lyerly asked about the work that NC State had done in the park. Manager Owen affirmed that all 3 stream restoration projects and cooling ponds/wetland areas were totally gone. He said that there are hopes that when the park project is instigated, those projects will be included. Council Member Lecka asked what the timeline is for restoration of the park. Manager Owen explained that work will start in the area that will be used for concerts in the park. The area where the volleyball court was, and the dog park will not have grass this summer. People will want to stay on the trail. Moving forward, the trail will have to be reworked because now it holds water.

Council Member VonCanon commented that years ago there was a suspension bridge that used to cross the Mill Pond there and there wasn't a bridge for Hickory Nut Gap Road.

Council Member Dunn asked about the Rouzer house and Manager Owen explained that there was a purchase of that property that led to the demolition of the building that didn't require any permits. Council Member Dunn expressed concern for a potential change in driving habits in that area. Chief Hodges responded that he understands the concern and can foresee the potential benefit in a guardrail, streetlamp, or something to aid safe driving.

Chief Hodges shared that the Commissioner of NCDOT has stated that damages in Western North Carolina included more than 9,000 roads, 900 bridges, and 850 culvert roads. At this point temporary repairs have been made on 2,400 roads. He stated that we are fortunate that we have so many roads that have been made passable so far.

Adjourn

With no further business, Council Member VonCanon motioned to adjourn and was seconded by Council Member Tufts. The motion passed and the meeting was adjourned at 7:25 PM.

Mayor Brenda Lyerly

Attested

Approved: