

BANNER ELK TOWN COUNCIL MEETING

April 14, 2025

MINUTES

The Banner Elk Town Council met on Monday, April 14, 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, Chief Kevin Hodges, and Attorney Four Eggers.

Call Meeting to Order

At 6:00 pm Mayor Lyerly called the regular Town Council meeting of April 14, 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 Hearings

Rezoning Request, Scout, Inc.

Parcel 1859-19-51-1877 Request to change from C1-P to M-U

Manager Owen identified the parcel as 3.77 acres adjacent to the mini storage units on Hwy 194. He stated that the property is currently C1-P and the owner would like to have it rezoned to M-U. Manager Owen responded to a question from the public that the property is not owned by Mike Eggers but is owned within the family. He also explained that the intended use of the property cannot be part of the discussion, only consideration of the appropriateness of that zone designation for that parcel. There was a question from the public for clarification about the difference in those zones and Mayor Lyerly shared her permits table printout as a start to helping to begin to answer the question.

Council Member Lecka made a motion to close the Public Hearing and Council Member Dunn seconded the motion. The motion passed unanimously.

Rezoning Request, Lees-McRae College

Parcel 1859-17-10-9367 Request to change from M-E to C-1

Manager Owen introduced the parcel as 159 Main Street. It is currently zoned M-E and is zoned separately from the rest of the campus. He explained that the college would like to change the zoning to C-1 so that they would have the potential to rent or lease that space. President Lee King added that the college would love to see the versatility of a C-1 zone and it makes sense for the college since it doesn't affect any surrounding parcel.

Mayor Lyerly closed this public hearing.

Approval of Minutes

Council Member Tufts motioned to approve the March 10, 2025 minutes as written and Council Member VonCanon seconded the motion. The motion passed unanimously.

Approval of Stated Agenda

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

Public Comment

Mayor Lyerly called Riley Oates from the Small Business Administration in the Office of Disaster Recovery and Resiliency. He wanted to make the public aware of the disaster loan programs available. He highlighted that the deadline for physical damages loans is April 27 and the deadline for economic injury loans is June 30. He explained the loan rates and term lengths and clarified the qualifying businesses. He also shared that there are loans for relocation. Council Member Dunn asked what kind of documentation is required for SBA loans and Riley stated that a contractor quote and images would be required once engaged in the loan but not for making an application. Riley encouraged following through on applications and investigating if further documentation or paperwork is missing/required when applicants have not received a response.

Mayor Lyerly called Hollis Bagby and Sam Brown spoke as a representative for Hollis. Sam Brown opened with thanks to the Council and Town staff for all the work they have done since the hurricane. He introduced his background as a local in the community and his role as the founder of the nonprofit Gear for Groms. He read a prepared statement explaining the background behind the interest in a skate park in Banner Elk and statistics to support how a new skate park would support the Town's mission statement. Hollis Bagby, a 10-year-old Banner Elk Elementary student, followed Sam's statement with a personal story about his interest in a skate park and why he would like to see one in Banner Elk. Charlie Hypes introduced himself as a long-term resident from Beech Mountain for 25 years and now Matney for the past 7 years. He stated that he is a physical therapist at Cannon Memorial Hospital and added why he thinks a skate park would bring revenue to the town and an identity for a premier action mountain town. His sons are in their thirties and they still skateboard and his grandsons skateboard, as well. He believes that a concrete park would be more durable and create a destination for visitors. As a physical therapist he sees the importance of sport activities and currently sees the need to create availability of sport activities in Banner Elk. Local students read a prepared statement together explaining the value they see in skateboarding and stated that they want to see a skateboard park in Banner Elk.

Mayor Lyerly explained the process involved in making decisions in a Town. Board Member Tufts explained that there will be public interest meetings about the park and thanked everyone for coming out.

Lex Veech, 200 Lynwood Lane, Sugar Mountain, wanted to talk about public use and safety. He expressed concern for the safety of cyclists and pedestrians with the building and rebuilding of sidewalks and bike paths.

Rezoning Request, Scout, Inc. – Manager

The request is for *Parcel 1859-19-51-1877* to be rezoned from C1-P to M-U. This parcel is 3.77 acres along Highway 194 adjacent to the Mini Storage. Manager Owen explained that the Planning Board had shown concern over this request due to issue they had found with the M-U zoning district and how development could take place. Their concern was with the zone itself and not the plans of Scout, Inc. Mayor Lyerly expressed a desire to respond to this request and concern over the length of time it could take for the Planning Board to address the ordinances in question in the M-U zone. Council Member Dunn asked Attorney Eggers about timing for application and ordinance changes and Attorney Eggers said that it depends on multiple factors, including when the application is filed. In response to Council Member Lecka, Attorney Eggers stated that the Planning Board would need to submit the changes to the Council, call for a Public Hearing, and then choose to adopt it. He explained that if the Council votes it down, it would have to wait six months before it could be revisited, and if the Council tables the vote, it could be considered as early as July. Manager Owen added that the writing of the M-U zoning ordinance does not currently require Mixed Use, it just allows it. The Planning Board feels that the M-U zone be rewritten to correct that, but they don't want to do that in response to this application even though it needs to be adjusted.

Derrick spoke as a representative for Scout, Inc. He explained that the project was in the works before Hurricane Helene and had to be tabled for storm recovery. He asked the Council to consider moving forward this evening. He highlighted that within the M-U zone there are many special permits required so there will be further work to be done with the Town to complete the project.

Council Member Tufts stated that he felt that the Planning Board should have time to address its concerns and complete its processes and he recommends that the Council tables this request and send a direct request to the Planning Board that they address the zoning issue. Council Member Lecka stated that he felt that this request should not be held off and he made a motion to allow the rezoning from C1-P to M-U. Mayor Lyerly stated that as a voting member of the Council she would second the motion. There was no further discussion. Mayor Lyerly, Council Member Lecka, and Council Member Dunn voted for the rezoning, Council Members Tufts and VonCanon voted against. The motion carried with a vote of 3-2.

Rezoning Request, Lees-McRae College – Manager

The request is for *Parcel 1859-17-10-9367* to be rezoned from M-E to C-1. The parcel is located at 159 Main Street and the request is being made to have the opportunity for Lees-McRae to lease it in the future.

Council Member VonCanon made a motion to approve the rezoning request and Council Member Tufts seconded the motion. Council Member Tufts noted for the record that the Planning Board recommended this rezoning. The motion was approved unanimously.

Annexation Request for Banner Lowe 1, LLC – Manager

Manager Owen explained that this annexation request is for this *parcel: 1858-1552-2667*, which is the parcel beside Lowe's Hardware. The developer wishes to annex into the Town for water and sewer.

Derek Goddard explained that the plan has been in process for a long time and it requires a well site. He asked the annexation request be tabled for sixty days.

Council Member Lecka made a motion to approve the tabling of the rezoning request for sixty days at the request of the applicant and Council Member Dunn seconded the motion. The motion was approved unanimously.

Consider Resolution, Micro Purchasing - Manager

Manager Owen reminded the Council that this was a continuation of a previous resolution. Attorney Eggers provided the history behind the resolution with an explanation of the criteria for micro purchasing that still provides for FEMA reimbursement for storm damage. It would allow for minimum thresholds for purchases of under \$30,000 and engineering fees for under \$50,000 to be made at staff discretion. Manager Owen and Attorney Eggers are debating and determining which thresholds will also meet FEMA requirements, but would like to have the resolution approved with the understanding that the exact amount will be determined within that criteria. Attorney Eggers suggested that the Council could approve the resolution pending attorney approval.

Council Member Lecka made the motion to approve the resolution pending attorney approval and Council Member Tufts seconded the motion. The motion was approved unanimously.

Storm Recovery Update – Manager

Manager Owen shared that the Town did get the extension for the inventory deadline and worked all the way up to the deadline to enter information appropriately. Damages will next get sorted into projects and 32 inspections will be scheduled. The Town's \$890,000 claim was approved by FEMA and it is currently sitting at state level waiting to be disbursed. The Town has received the \$769,000 State Treasurer's loan.

The RFQ put out for engineering services had 2 responses so must be re-advertised so that there are at least 3 to be considered. The RFP related to the SCADA did have 3 proposal responses and so it should be able to move forward after it closes on Friday.

The generator for Town Hall for Well 3 has arrived. It is larger than what was previously there so the building will need some modifications.

On the topic of private property debris removal, the Town is working to support people through the process. Frustration has been expressed about not getting through, but Council Member Tufts said he finally heard back today so it is possible that people will start hearing back.

In response to Council Member Lecka, Manager Owen said that the Town is looking for a site for debris as it is removed from the Park. The park will need to be regraded, but there are questions about whether the Town will be allowed to grade to the best needs of the park. If the Town wants FEMA reimbursement, it must work with them to determine a process which might include restoring it to where it was before doing other work.

Manager's Update & Staff Reports

Manager Owen reported that there will be a meeting with engineers on Thursday. They are not open to the public, but Council Members can attend.

Manager Owen said that a Public Input session will be held in the first or second week of May and the interest for a skate park can be part of that discussion. The Town will also share the Park and Rec plan that was created back in 2022 as part of an extensive survey. This is also available to view on the Town's web page.

Manager Owen made the Council aware of a couple of bills at the state level. One of them deals with zoning and removes the ETJ for any city within counties of less than 50,000 population. He explained why the ETJ is important to the Town of Banner Elk and how losing that zoning jurisdiction would affect the look of the town in all areas. Avery County doesn't have zoning ordinances so there won't be any oversight if the Town loses their zoning. The second bill also affects zoning and controlled development. These are House Bill 765 and Senate Bill 493.

Other Business

There was no other business.

Adjourn

With no further business, Council Member Lecka motioned to adjourn and was seconded by Council Member Tufts. The motion passed and the meeting was adjourned.

The meeting ended at 7:16.

Approved: _____
Mayor Brenda Lyerly

Attested: _____