

BANNER ELK TOWN COUNCIL MEETING

October 13, 2025

MINUTES

The Banner Elk Town Council met on Monday, October 13, 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, Public Services Director Justin Hodges, and Attorney Eggers.

Call Meeting to Order

At 6:00 pm Mayor Lyerly called the regular Town Council meeting of October 13, 2025 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.

Special Presentation to the Banner Elk Volunteer Fire Department

Mayor Lyerly called the members of the Banner Elk Volunteer Fire Department to be recognized and read the “Resolution Recognizing the Banner Elk Volunteer Fire Department For Their Extraordinary Service to Our Community”.

Approval of Minutes – September 8, 2025 Council Meeting

Council Member Dunn made a motion to approve the minutes for the September 8, 2025 Council Meeting and Council Member VonCanon seconded the motion. The motion passed unanimously.

Public Comment

Ted Silver wished to make comments as a Banner Elk town resident of eighteen years and from his lifetime of experience about growth and development in Florida and in Banner Elk. He pointed out that developers can be persuasive when promoting their plans, but any decisions and concessions have long term consequences and impact. He asked that the Council recognize that real estate is unique and valuable. He submitted that growth along the two state road corridors and Hickory Nut Gap Road are significant and lasting. He expressed concern that congestion of those state road corridors would lead to road restructuring that would impact the town and the businesses in the town. He mentioned that on the state’s strategic traffic improvement plan is an unfunded and planned goal for the widening of Highway 184.

Mr. Silver stated that 1)there is plenty of room to interpret Banner Elk’s town strategic growth plans to meet a controlled growth and development that will maintain what defines the town, 2)engineering judgment allows NCDOT to change plans that do not make good sense for best practice and safest design when implemented. Mr. Silver stated that the Council does not need to rigidly follow what does not make good sense, but must be vigilant and aware of the many areas of local control and decision

making that are currently being limited by our North Carolina legislature either in discussions or in bills that have already been passed.

Approve Stated Agenda

Council Member Lecka made a motion to approve the minutes for the October 13, 2025 Council Meeting and Council Member Tufts seconded the motion. The motion passed unanimously.

Agenda Item #1 – Notting Hill Preliminary Plat Review – Manager

Manager Owen introduced this plat previously approved in 2022 for a subdivision for Notting Hill. This property is a little over four acres and is for nine lots. The permit expired because development did not begin within the permit period. The developer is now bringing this subdivision back without any changes from the former application. Susy Rein recapped the Planning Board review of the Notting Hill Preliminary Plat. She emphasized the importance of the conditions recommended by the Planning Board along with their recommendation for approval. First, the Planning Board highlighted the need for safety with the new intersection. They also recommend that a fee be assessed in lieu of installation of sidewalks since it will not be practical to install sidewalks with the sale of each of the individual lots. The Planning Board recommended that a fee be assessed for the lack of ability to completely meet the requirement for an included recreation area due to the topography of the site. This fee could be applied to recreation elsewhere within the town. Mrs. Rein pointed out that there is a fee formula written into each of the applicable ordinances that pertain to these two fees. She stated that if there was an offer to dedicate the roads to the town and the town would have the choice to make them public or private. She stated that a fence would be required above the retaining wall because of its height and the design and landscaping is subject for review by the town before it is installed.

Manager Owen provided an aerial view of the area where a new intersection would be created by this new development and highlighted the complications involved with the convergence of High Lowe Lane and Old Hotel Road.

Bob Grasso of Land Planning Cooperative spoke as the developer working for the owner of this property, Angelo Accetturo. He addressed the challenge of the intersection. He explained that the connection of the one-way road to this intersection can make it easier since it only has one direction of traffic. He shared some of the preliminary suggestions for the road, like installing a stop sign, and stated that he is open to the engineers recommendations for the best plan.

Manager Owen explained that the plat being viewed seemed to indicate an angle that would make it a challenge to turn left out of the development, but the proposed road would be straighter than that. He explained that a complicating factor is the one-way road coming in from Lees-McRae.

Johnny Connolly, a neighbor and resident, used the projected visual and explained that the elevation of the proposed roadbed requires some filling and grading and he is concerned about the safety of the final road.

Chad Carpenter, owner of the property in the middle of the proposed development, highlighted his safety concerns for the new intersection that would be created for the proposed development. He

explained that there is currently a blind corner for the existing intersection of Old Hotel Road and High Lowe Lane. He added that in the winter there is an icing problem in that area that compounds the safety issues. Mr. Carpenter asked the Town Council to consider the safety issues concerning this new intersection.

Mr. Carpenter brought up a separate concern about deed issues. He explained that there is a sliver of property that Mr. Accetturo has promised to be deeded off to him, but that hasn't yet happened. He wanted to bring this to the attention of the Council because he isn't sure where else that issue should be directed.

Attorney Eggers explained that the first phase of a developer's work is a preliminary plat. The next step would be a final plat approval or postdate construction fines up to 110% of whatever remains to be completed of the subdivision development. The developer cannot sell off any of the lots until he has taken those steps. He directed the Council that they could approve the preliminary plat with the conditions placed on it by the Planning Board if they find that it fits the ordinances for a subdivision.

Attorney Eggers explained that the deed issues would need to be resolved as a civil action between Mr. Carpenter and the property owner. He explained that the final plat approval would come back to the Council for final plat approval. He cautioned the Council that they cannot approve a plan that requires the use of property not part of the plat being developed. He clarified that it was his understanding that it does meet the ordinances required and Susy Rein added that the ordinances haven't changed since the original plat was approved. Attorney Eggers stated that it was his understanding that the appropriate right-of-access for the easement or deed was recorded and still stands. He relayed the history that led to this recorded easement or deed.

Mr. Connolly asked who would be responsible for the retaining wall for the road and Manager Owen stated that the plat indicates that the area in question is owned by Notting Hill. Manager Owen referenced back to the meeting of January 2022 and the deeding of the property at the end of the road.

Council Member Tufts made a motion to approve the preliminary plat with the consent of the developer to the five conditions recommended by the Planning Board and Council Member Lecka seconded the motion. The motion passed unanimously.

Agenda Item #2 – Resolution for Funding, Lead and Copper Inventory

Slate Harvin with Harvin Engineering spoke about the piping and water system inventory work being done for the town. He explained that the EPA is now requiring that the town be able to identify all unknown water services and formulate a plan for any galvanized piping replacement by November 2027. The town would then be obligated to replace any identified lines within a ten year period. The resolution included in the Council's packet is to approve the intent to apply to the state for funding to complete the investigation and for the replacement of any necessary lines. This does not obligate the Council to anything other than the intent to apply. The application would be due November 3, 2025 with one hundred percent principal forgiveness with a 2% fee.

Council Member VonCanon made a motion to accept the resolution for funding the lead and copper inventory and Council Member Lecka seconded it. The motion passed unanimously.

Agenda Item #3 – Amendments to Hazard Mitigation Plan – Chief Hodges

Chief Hodges stated that Avery, Mitchell, and McDowell counties, of the Toe River Hazard Mitigation Plan, have all been working together and have identified six new items that need to be added to the plan. The plan is adopted every five years and this one would be for 2026. He stated that there are some 404 moneys that might be available.

Council Member Lecka made a motion to accept the amendment to the Hazard Mitigation Plan and Council Member VonCanon seconded the amendment. The motion passed unanimously.

Agenda Item #4 – Budget Amendment, Maintenance Truck Purchase – Manager

Manager Owen explained that there are some vehicles that would need to be retired or replaced that weren't specifically budgeted for because there wasn't yet a plan developed. Justin would like to trade in a seven-year-old vehicle. Public Services Director Hodges is proposing to trade in a 2015 Super Duty for a Chevrolet Colorado 2026 which is a smaller vehicle. The additional cost would be \$14,200 and the money would come from the water and sewer fund.

Council Member VonCanon made a motion to approve the budget amendment for a maintenance truck purchase and Council Member Dunn seconded the motion. The motion passed unanimously.

Agenda Item #5 – Budget Amendment, Storm Related Expenditures – Manager

Manager Owen asked the Council to consider a budget amendment for FEMA related expenditures. He stated that the one before the Council is for administrative, streets and water and sewer expenditures. For the attendees, he specified that the request was for \$600,000 in the general fund and \$375,000 in the water and sewer fund.

Council Member Tufts made a motion to accept this budget amendment for storm related expenditures and Council Member Lecka seconded the motion. The motion passed unanimously.

Agenda Item #6 – Storm Recovery Update – Manager

Slate Harvin shared that most of the subconsultants are in place. A delay or hold up for work is waiting on the geotech report for the boring data that is necessary before any bridge repairs. This information is expected to be available by the middle of November. The structural crew has started their work and the survey crew has begun their work to acquire certifications.

Mike Healey explained that the design work on Lecka Lane and Crooked Creek should begin within 35 to 40 days. He stated that there is a temporary bridge that the town is looking at purchasing and it will be reusable for multiple properties. It will save a lot of work on detour routing.

Fred Schmitt asked about logistics for completion and Mike agreed that completion is likely now going to be some time in the spring. There are four disciplines at work - structural, survey, geotechnical, civil

- and they each have their piece that must be completed. Mr. Schmitt explained that it would be helpful in the POA meetings to be able to have a response to questions on timeline.

Mr. Healey explained that \$1.2 million has been received so far and around \$1.1 million expected to come in without any known obstacles. He stated that FEMA would like them to accept another \$1.6 million but the estimated costs from FEMA and the engineering cost estimates do not match and that will be an ongoing process. He explained that their estimate needs to be driven higher and it is a complicated process because the engineer's estimate might come in under the lowest offered bid. Manager Owen stated that the estimate cannot be accepted until the costs are complete. He stated that once an estimate is accepted, it is final. They explained that for the SCADA system, the insurance company is going to come out, so the Town will wait for their response before returning to FEMA.

Manager and Staff Reports

Manager Owen highlighted the staff reports in the packets and stated that he didn't have anything else to add.

Council Member Tufts asked Public Services Director Hodges about his report about cutting off water and if that was a regular occurrence. He responded that it doesn't happen often, but there are some regular offenders. Manager Owen explained that the Town is as lenient as it can be.

Chief Hodges announced that a K-9 officer would be joining the department. It was paid for by donations and its name is Que.

Council Member Dunn shared that there is a bill at the state level that is recommending privatizing alcohol distribution. The impact would take away the funding provided by the ABC stores.

Other Business

There was no other business at this time.

Closed Session

Council Member Tufts made a motion for closed session citing 143.318.11(a)(3) and Council Member Dunn seconded the motion.

Council Member VonCanon made a motion to end the closed session and Council Member Dunn seconded the motion. The motion passed unanimously.

Adjourn

With no further business, Council Member Tufts motioned to adjourn and was seconded by Council Member Dunn. The motion passed and the meeting was adjourned at 8:12 pm.

Approved: _____
Mayor Brenda Lyerly

Attested: _____