

**BANNER ELK TOWN COUNCIL MEETING**  
**December 8, 2025**  
**MINUTES**

The Banner Elk Town Council met on Monday, December 8, 2025, at 6:00 p.m.

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

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

**Call Meeting to Order**

At 6:00 pm Mayor Lyerly called the regular Town Council meeting of December 8, 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.

**Issuance of Oath of Office - Newly Elected Council Members**

Mayor Lyerly swore Charles Saunders and Mike Dunn into office for the next term as Town Council Members. Mayor Lyerly recognized Council Member Robert Tufts for his years of service as he stepped down from his Town Council position.

**Selection of Mayor Pro Tempore - Mayor Lyerly**

Mayor Lyerly opened the floor for nominations for Mayor Pro Tempore. Council Member Dunn nominated Council Member VonCanon. Council Member VonCanon stated that he appreciated the nomination but preferred not to serve in that role. Mayor Lyerly nominated Mike Dunn and Council Member Saunders seconded the nomination. The motion passed unanimously.

**Approval of Minutes**

Council Member Dunn made a motion to approve the minutes for the regular Town Council meeting on October 13, 2025 and Council Member Saunders seconded the motion. The motion passed unanimously.

Council Member Dunn made a motion to approve the minutes for the special Town Council meeting on October 20, 2025 and Council Member VonCanon seconded the motion. The motion passed unanimously.

Council Member VonCanon made a motion to approve the minutes for the special Town Council meeting on October 30, 2025 and Council Member Dunn seconded the motion. The motion passed unanimously.

Council Member VonCanon made a motion to approve the minutes for the regular Town Council meeting on November 10, 2025 and Council Member Dunn seconded the motion. The motion passed unanimously.

**Public Comments**

Sam Kohler spoke on behalf of the residents on Lecka Lane. He stated that it has now been more than two months since residents have been able to drive onto their properties. He asked about the timing for

the bridge being built and access to their properties. Mayor Lyerly expressed her sympathy for their plight and explained that the Town has tried to work with John Gardner, the property owner who has closed the temporary access to their properties.

Manager Owen explained that the temporary bridge should have started today but didn't start due to the weather. In the meantime, the decking is being put on the steel structure prior to delivery to keep expedite the installation. He stated that the contractor will have work to do on both sides of the creek, as well. Manager Owen stated that it is his understanding that equipment will arrive by the end of the week and that once the work starts, it should take less than a week.

Mr. Kohler expressed concern about the lack of access recurring when the temporary bridge is replaced with the permanent one. Manager Owen explained that the Town hopes that there will be a bridge installed on the neighboring property on the other side, owned by Mr. Acceturro, and that he will allow temporary access when the time comes.

Mr. Kohler told Manager Owen that in light of the fact that this is a special circumstance, the easement around the Town well site should not be in question and the Town should just tell Mr. Gardner that access must be allowed. Manager Owen explained that the Town Council does not have the prerogative to do that because it is private property. He stated that after lengthy conversations with the Town's attorney, an option to force use of the property would be to condemn it but that would take months. Mr. Kohler and another neighbor asked what the consequences would be if they just crossed as needed. Manager Owen stated that the Town wouldn't have anything to do with that situation because it is private property. Chief Hodges stated that Mr. Gardner could charge anyone who does that with trespassing because the fence and chain that is up makes it very clear that the owner does not wish anyone to pass through. Mr. Kohler asked if the Town knew why Mr. Gardner made the decision to close off the access and said that he had heard from Mr. Gardner that he had put up the chain to move the Town along.

Jarrett Kohler stated that Mr. Gardner told them that he had made those decisions to push the Kohlers to go to the Town and push action about repair of the bridge. He also stated that Mr. Gardner has continued to direct them to contact Manager Owen for solutions. Manager Owen suggested that they ask Mr. Gardner how pushing people to push the Town actually moves the repairs along. He stated that he had sent emails to the Kohlers explaining the Town's position and the reasoning the Town had been given for no longer allowing access across the property. Manager Owen stated that Mr. Gardner's actions that have closed off property access for the residents of Lecka Lane cannot move the Town to proceed faster. He explained that the Town has bought a bridge and hired a contractor. He stated that progress right now is unrelated to FEMA but seems to be related to Mr. Gardner and another property owner wanting money for access to their properties thus putting the other residents on Lecka Lane and the Town Council to be stuck in the middle.

Mayor Lyerly expressed sympathy for their situation, once again, and the Kohlers thanked the Council for their time and responses to their questions.

Chief Hodges introduced K9 Que and Officer Logan Blair. He stated that the Council would receive a report about the amazing things that she has done. He cited as an example that she has already identified methamphetamine and heroine multiple times and uncovered a large number of mushrooms. Que interacted with the audience and Manager Owen stated that being social and approachable was a quality the town desired when considering a K9.

### **Approval of Stated Agenda**

Mayor Lyerly asked for a motion to approve or amend the stated agenda. Council Member Dunn made a motion to approve this month's agenda minus the Closed Session and Council Member VonCanon seconded the motion. The motion passed unanimously.

### **Presentation of ABC Audit Report - Bonnie Betz**

Bonnie Betz presented the Audit to the Town and stated that it was a clean audit with no budget findings. She stated that Hurricane Helene affected ABC sales and they were down 5.71%. Ms. Betz stated that the Board was able to present the budgeted \$195,000 to each of their towns and contribute \$64,000 for law enforcement and alcohol education. She stated that the Board was unable to give end-of-year bonuses to the towns like they are usually able to do. However, since the merger of the three stores to one, the Board has been able to give almost \$8 million and things are getting better.

Ms. Betz reported that restaurants carried store sales this year. They increased 1.16% over last year and 6 new restaurants have opened up since last October. She stated that there is a reasonable expectation that revenues should increase from that source, especially since the Town of Newland passed an ordinance that allows liquor by the drink and those restaurants will have to buy from the ABC store.

Ms. Betz highlighted the line on the last page of the audit report for percent of cost of sales to total sales. She explained that it shows what inventory is coming into the store and what is going out. She stated that the ABC store only increased .7% from last year which means that the product is moving.

Ms. Betz stated that since the sales were down 8%, the Board was looking at ways to increase sales. She shared that the Board has decided that stores will conduct tastings on Fridays and Saturdays from 3-6 pm and the first tastings started in October. There will be QR Codes distributed that provide the schedule of tastings and what will be offered.

Ms. Betz thanked the Council, Robin Dunn, and Rob Corn for their support and work. Mayor Lyerly thanked Ms. Betz for her work.

### **Audit Contract Amendment - Manager**

Manager Owen stated that the town contracts for the audit with Misty Watson and the Local Government Commission has put a hold on single audits being completed until some federal compliance guidelines have been completed. He explained that due to the government shut down those compliance guidelines had been pushed back and Misty has not been able to complete the work. He stated that the LGC has recommended that anyone that has not turned in their audit make this amendment. Manager Owen stated that this will allow her the time to complete the work by the new deadline of February 12, 2026.

Council Member Dunn made a motion to approve the moving of the audit deadline and Council Member Saunders seconded the motion. The motion passed unanimously.

### **Surplus Equipment, Jetter - Justin Hodges**

Director Hodges stated that there are several pieces of equipment that the town is looking to get rid of because they have been replaced with newer equipment. He explained that the town has a sewer jetter that Lees-McRae has expressed interest in. He stated that for this purchase all this is needed is approval from the council.

Attorney Petrack clarified that while purchases ordinarily require a bidding process, the Town doesn't need a bid for this purchase because Lees-McRae is a nonprofit organization.

Council Member VonCanon made a motion to accept the request made by Lees-McRae to purchase the jetter for \$8,000 and Council Member Dunn seconded the motion. The motion passed unanimously.

**Budget Amendment - Manager**

Manager Owen explained that the police department generated \$15,000 in revenue from selling two surplus vehicles. The town would like to use this revenue to purchase two in-car radios. He explained that there is a need to replace the radios in the police departments vehicles in response to adjustments made in the county's radio system. He stated that since they are expensive, they were not made a budget item, but instead were planned to be added as money allowed. He stated that the second part of this amendment accounts for miscellaneous revenue from the Tourism and Development Authority given in a grant to the police department for promotional materials. This budget amendment is #20251208.

Council Member Saunders made a motion to accept the budget amendment #20251208 and Council Member VonCanon seconded the motion. The motion passed unanimously.

**Planning Board Member Application - Manager**

Mayor Lyerly introduced the application of Charles (Trey) VonCanon III to become an in-town Planning Board Member.

Council Member Dunn made a motion to accept the application and install Charles (Trey) VonCanon III for an in-town Planning Board member and Council Member Saunders seconded the motion. The motion passed unanimously.

**ABC Store Board Member - Manager**

Mayor Lyerly introduced the application of Ted Silvers as the new ABC Board Member. Manager Owen clarified that Mr. Silvers would complete the term for Rob Corn.

Council Member Dunn made a motion to accept the application of Ted Silvers for ABC Board Member and Council Member VonCanon seconded the motion. The motion passed unanimously.

**Board Member Terms - Manager**

Manager Owen overviewed the Board Member terms listed in their packet: Joel Owen was nominated for Planning Board, Fred Schmitt was nominated for Board Of Adjustments, Mike Dunn, Lauren Foster, and Tom McMurray were nominated for the Tourism and Development Authority. He highlighted that there is a Planning Board seat vacancy. He stated that all but one member has been contacted and those contacted have all stated that they wish to renew their terms. Manager Owen stated that Tom McMurray is the TDA Board Member not reached and that they would proceed to renew his term and he could step down if he so chose. Mayor Lyerly and Manager Owen agreed that the Lees-McRae representative, Lauren Foster, could be changed when and if desired by Lees-McRae.

There are vacancies on the Planning Board and the Board of Adjustments for in-town and ETJ.

Council Member Saunders made a motion to appoint the Board Members nominated as listed and Council Member VonCanon seconded the motion. The motion passed unanimously.

**Resolution, Application for State Revolving Fund - Kevin Hodges**

Chief Hodges stated that this resolution would allow for an application to be submitted for State Revolving Funds to assist with the clarifier project. He has been working with the High Country Council of Governments to complete an application.

Council Member VonCanon made a motion to approve the Resolution for the Application for State Revolving Fund and Council Member Dunn seconded the motion. The motion passed unanimously.

### **Storm Recovery Update – Manager**

Manager Owen provided a visual listing for the Council of the projects the town is engaged in for storm recovery.

He stated that the first 11 projects have been obligated and they are already in the pipeline. He highlighted that Lecka Lane is number eleven and clarified that it was the first project that the town received money for and that it hasn't been the money that has held up the project. He stated that it has been the geotechnical work, surveying, design and engineering, and all the things that go into getting the project ready to actually proceed. He pointed out that FEMA's projected cost is slightly above what the town ended up paying for the temporary bridge, so the costs are not going to be anywhere near the projected costs.

He stated that projects 14-21 are pending FEMA review. He stated that the Town does not feel that they can complete the work with the funding that FEMA has proposed. He explained that they are in the design phase for the projects and have done the geotechnical work and engineers have been hired with the hope that the town could be bidding the projects out and have real cost estimates to provide for FEMA. He highlighted the projected costs for Silver Springs and Crooked Creek and the need to have real cost comparisons. He stated that FEMA is putting pressure on the Town to accept the money offered and the Town is not willing to do that because it will not cover the projects that need to be done.

Manager Owen stated that they have directed their engineers to provide an estimate to take to FEMA for the sewer plant and right now it appears it could cost over a half a million dollars when FEMA is projecting \$74,000. Manager Owen stated that those projections have been sent to FEMA and will go through their review process to determine if they will raise their funding.

Manager Owen reviewed a series of projects as listed on the sheet handed out including the park bridge, the creek work, and the storm water work. He stated that item number 27, utilities, still has a lot of work left to be done and that the estimate listed is before any engineering projected costs. He also highlighted item number 35, utilities, town-wide SCADA shows the cost difference, and the project is now in front of the town's insurance company. He stated that since the insurance company is going to pay into the repairs, the town will go back to FEMA and there will be an adjustment based on what is left to pay.

Manager Owen highlighted the work on Penny Lane. He stated that the geotechnical work uncovered voids in the road that will have to be addressed that simply weren't visible without that testing and are important to have been caught before they became an issue and while they were still eligible as storm damage.

He explained that down towards the bottom of the report are the projects that were pending more information and things that are needing FEMA approval. He stated that the Emergency Protective Measures line item has been in their queue for some time with various questions and that the Town is hoping that it will be resolved shortly.

Manager Owen highlighted item number 58 as the Shawneehaw Creek Restoration and pointed out that it does not yet have a price associated with it. He stated that FEMA will pay for things that are constructed facilities and the creek was a constructed facility that the town has received grant money for over the years for stream restoration. After multiple site visits, it seems that FEMA will be working with them on stream restoration from Dogwood to the playground in the park.

Council Member VonCanon asked if Manager Owen had explained item number 15, Town Hall, and Manager Owen stated that he had not yet, but the Town is waiting for the insurance company as they look for further justification for the repairs needed. The insurance company is looking to determine what was storm related.

Manager Owen stated that there were seven (Lecka Lane, Crooked Creek, Silver Springs, Chime Hill, and several places in Apple Orchard) projects that required soil boring geotechnical work which took months for the whole process. The soil sat in a lab and the engineers couldn't proceed until the reports came back from the labs. The ideal situation will be that the designs will happen over the winter so that construction can take place when spring arrives.

Council Member Saunders asked Manager Owen what the process would be with FEMA going forward and Manager Owen stated that it is a process that goes back and forth. He stated that there is a lot of push for acceptance of offers for projected project cost. But the problem is that the work has to go through the proper process with the phases of engineers in order to have projected project costs and know if the offers will cover the cost of the project.

Manager Owen stated that the Town would like to be further along and is not satisfied with where things are at this time.

### **Manager's Update & Staff Reports**

Manager Owen recounted the staff reports that were included in this meeting's packet.

He stated that the low bidder from last month for the wastewater treatment plant project has not yet been approved by the State.

He stated that there was state revolving loan money available from the state and so Director Hodges worked with McGill Engineering for a State Revolving Fund loan application. He shared that the request has been approved for \$6,197,000 and the loan forgiveness is \$5,898,000 so the town would only be repaying \$299,000. There are a number of significant projects that will be included.

Manager Owen discussed the money flowing into Western North Carolina for recovery projects and the demand it is creating for engineers and contractors. He affirmed that McGill was committed to working with the town. He reminded the Council that Chief Hodges was continuing to work on writing grants to bring more money in for storm repair.

### **Other Business**

There was no other business.

### **Adjourn**

With no further business, Council Member Dunn motioned to adjourn and was seconded by Council Member VonCanon. The motion passed and the meeting was adjourned at 6:59 pm.

Approved: \_\_\_\_\_  
Mayor Brenda Lyerly

Attested: \_\_\_\_\_