

**BANNER ELK TOWN COUNCIL MEETING
DECEMBER 11, 2023
MINUTES**

The Banner Elk Town Council met on Monday, December 11, 2023, at 6:00p.m.

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

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

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular Town Council meeting of December 11, 2023, 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.

Oath of Office

The mayor, and fellow Councilmen VonCanon and Lecka took their Oath of Office and were sworn in after the last election. Councilman VonCanon nominated Councilman Robert Tufts to be appointed as Mayor Pro-Temp. The motion passed unanimously.

Approval of November 13, 2023, Minutes

Mayor Lyerly asked the Council to review and approve the minutes from the November 13th regular meeting. With no changes made, Councilman Lecka motioned to approve the minutes as presented with a second by Councilman Tufts. All were in favor of the motion.

Approval of Stated Agenda

Mayor Lyerly asked if there was a motion to approve the stated agenda. Councilman Dunn motioned to approve the agenda as stated and was seconded by Councilman Tufts. The motion passed unanimously.

Public Comment

There were no people signed up for public comment.

Annexation Request, 1697 Balm Highway: 1869-0303-1241 Public Hearing

Councilman VonCanon motioned to open the public hearing and was seconded by Councilman Dunn. Town Manager Rick Owen reminded the Council of the request for annexation so the property in question could receive sewer service. There were no comments from the public.

Ordinance Amendment- Unsafe and Hazardous Buildings Public Hearing

Councilman Lecka motioned to open the public hearing and was seconded by Councilman VonCanon. Town Manager Rick Owen reminded the Council of the new ordinance that would allow the Town to regulate unsafe and hazardous buildings. There were no comments from the public.

Annexation Request, 1697 Balm Highway- 1869-0303-1241

Town Manager Rick Owen reminded the Council that this request was for a non-contiguous annexation for sewer services. He explained that the property has a failing septic system and that the owner will be responsible for the cost of the extension of the sewer line. He explained that the owner will be paying for the connection and needs to work out a way of payment and agreement. Town Attorney Four Eggers explained that the Council can require different forms of payment such as a performance bond, Deed of Trust, or lump sum payment. He further explained that the annexation would be contingent on the completion and payment of the sewer line. The council discussed the options and determined that the property owner could have the option of obtaining a surety bond or posting 125% of the project amount up front. With no comments or questions, Councilman Dunn motioned to allow a 125% surety bond and making the annexation contingent on the payment of the project. The motion was seconded by Councilman VonCanon. The motion passed unanimously.

Consider Ordinance Amendment- Unsafe and Hazardous Buildings

Town Manager Rick Owen informed the Council that this request was for an ordinance that would allow for the Town to regulate unsafe and hazardous buildings by means of condemnation or civil penalties. He further stated that the Planning Board recommends the ordinance with clarification that the penalty is defined as \$300 per violation and each day is a new violation. With no comments or questions, Councilman VonCanon motioned to approve the ordinance and was seconded by Councilman Dunn. The motion passed unanimously.

Town Audit Report

Misty Watson presented the 2022-2023 fiscal year audit report to the Council and explained that the Town received an unmodified opinion, which is a clean opinion of the audit. The Town saw increases in both the general fund and water/sewer fund. She further explained specific points of interest in the audit report. Mrs. Watson reviewed a Financial Performance Indicator of Concern (FPIC) with the Council as required by the Local Government Commission. The concern relates to the Water and Sewer Capital Assets Condition Ratio. The ratio can be an indicator of the remaining useful life of assets in the water and sewer enterprise. The Towns current ratio is .31 and the recommended ratio would equal to .50 or greater. This capital assets condition ratio can be used as a formula to calculate the remaining useful life of the systems. A remaining useful asset value less than .50 may signal the need to replace the assets in the near future. The Town manager will need to prepare a letter addressing the concern to be sent to the Local Government Commission. Councilman Tufts discussed with Misty the time and work that goes into the audit report. The Council thank her for the job she does.

ABC Store Audit Report

Bonnie Betz with the ABC store presented the audit report for the ABC store. She explained that they received a good clean audit. The store had over 5.3 million dollars in sales. That was a 3.75% increase over the prior year. The ABC board gave over \$69,000 in grants to alcoholic prevention programs. As owners of the store, Banner Elk, Sugar Mountain, and Seven Devils received \$648,000 divided between the municipalities. Bonnie reviewed other highlights from the audit report and pending plans for warehouse expansion and other regulatory issues.

Budget Amendment: Police Radios and In-Car Laptops

Town Manager Rick Owen addressed the Council for a budget amendment. He explained that the request is for 2 police vehicle radios and in-car laptops. He stated that the radios were in last year's budget but had not been billed since the radios had not been programed and installed. The second request involves in-car laptop replacements. The laptops would be purchased with funds from the COPS golf tournament fund. With no further comments or questions, Councilman Dunn

motioned to approve the budget amendment and was seconded by Councilman Tufts. The motion passed unanimously.

Historic Banner Elk School Update

Town Manager Rick Owen updated the Council with the continuing work on the project. In the first phase, grading for the parking lot is 90% completed as well as 90% of the curb and gutter. He presented to the Council a change order to remove the sidewalk behind the fire department, removing an old water line and meter, and installing a new tap and meter in a different location. He also stated that portions of electrical conduit would be included in the change order as well. Councilman VonCanon motioned to approve the change order and was seconded by Councilman Lecka. The motion passed unanimously.

Manager Updates

Town Manager Rick Owen stated staff reports were in the packets for Council and the following updates:

- A few board members' terms are expiring this month and will need to be reappointed. Both boards still have vacancies. Town Manager Rick Owen will reach out to the members to ensure that they want to be reappointed.
- A staff luncheon will be held on the 19th and Council is invited to attend.

Closed Session

Council entered into close session for attorney client matters with a motion from Councilman Dunn and was seconded by Councilman Tufts.

Other Business

Councilman Dunn motioned to give David Woods 60 days to sign his annexation agreement with the Town and to pay all fees owed to the Town, effective immediately the Town will cap the sewer line and there will be no water or sewer in the building. Councilman Lecka seconded the motion and it passed unanimously.

Councilman Tufts motioned to give a \$500 bonus to all employees and \$1000 to the Police Chief, Public Services Director, and the Town Manager. The motion was seconded by Councilman Dunn and passed unanimously.

The Council discussed their annual holiday gathering for board members. After discussion it was decided that due to numerous timing issues and other concerns, they would forgo the event this year.

Town Manager Rick Owen explained that the Hampton Inn project that was being discussed next to Lowes Hardware is not happening due to financial concerns of the project by the developer, but the developer was very pleased with his experience working with the Town and staff.

With no further business, Councilman Tufts motioned to adjourn as was seconded by Councilman Dunn. The meeting adjourned at 8:02 pm.

Approved: _____
Mayor Brenda Lyerly

Attested: _____