

**BANNER ELK TOWN COUNCIL MEETING
JANUARY 8TH, 2024
MINUTES**

The Banner Elk Town Council met on Monday, January 8th, 2024, 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, and Attorney Four Eggers.

Call Meeting to Order

At 6:00 p.m. Mayor Lyerly called the regular Town Council meeting of January 8, 2024, 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.

Approval of December 11th Minutes

The December minutes will be approved during the February meeting.

Approval of the 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

Greg Jenkins addressed the Council by speaking about veterans and recognizing veteran owned businesses. He also spoke about the Avery County Commissioner's changing their rules related to public comments during their meetings. He urged the Council not to follow suit and to allow all members of the public to be able to speak at meetings and encouraged everyone to be involved in County meetings.

Annexation Request, Banner Lowe 1, LLC Parcel: 1858-1552-2667

Town Manager Rick Owen addressed the Council and stated that the property owner has asked for the annexation to be tabled until the March meeting. With no further questions or comments, Councilman VonCanon motioned to table the discussion until the March meeting and was seconded by Councilman Dunn. The motion passed unanimously.

Republic Services Agreement

Town Manager Rick Owen explained that the Town had a 3-year franchise agreement with Republic Services for solid waste disposal which was entered into in March of 2019. The contract allowed for an automatic 1-year renewal which was entered in 2022. As that extension expired, the Town extended an additional year last year. He would ask the Council to extend the renewal for a third 1-year period at this time. In discussion with Republic Service representatives, it is their desire to return to a multi-year agreement in the future. Councilman VonCanon motioned to approve the extension and was seconded by Councilman Tufts. The motion passed unanimously.

Capital Project Ordinances for State Budgeted Funds

Town Manager Rick Owen explained that the Town received \$2,000,000.00 in funding from the State budgeted American Rescue Plan Act funds for water and sewer related projects. These projects have been identified and the engineering firm McGill has been hired for the project's design, engineering, and oversight. He requests the Council to pass 2 Capital Project Ordinances to account for the project's revenues and expenditures. With no further discussion, Councilman Lecka motioned to approve the ordinance for the Water project and was seconded by Councilman Tufts. Councilman Lecka motioned to approve the ordinance for the sewer project and was seconded by Councilman VonCanon. Both motions passed unanimously.

Board Appointments

Town Manager Rick Owen addressed the Council regarding Board appointments. He explained that there are Board members whose terms expired in December. The members of these Boards require an appointment from the Council. The following boards have terms expiring and need members reappointed.

Planning Board – 3 Terms expiring, there are currently vacancies for in-town and ETJ members in addition to the terms expiring. Councilman Dunn motioned to reappoint the sitting members and was seconded by Councilman VonCanon. The motion passed unanimously.

Board of Adjustment – 1 Term expiring, there are currently vacancies for in-town and ETJ members in addition to the term expiring. Councilman Lecka motioned to reappoint the sitting member and was seconded by Councilman Tufts. The motion passed unanimously.

Tourism Development Authority – 2 Terms expiring, no vacancies. Councilman VonCanon motioned to reappoint the sitting members and was seconded by Councilman Tufts. The motion passed unanimously.

Fred Schmitt of Crooked Creek urged the Council and the Town to recruit new members for both the Planning Board and Board of Adjustment.

Woods Sidewalk Easement Dedication and Potential Performance Bond

Town Attorney Four Eggers explained to the Council that the Town has received a signed Sidewalk Easement regarding the property of David and Jennifer Woods. One of the conditions of their project was the dedication of an 8-foot easement for a sidewalk along 184. The other component is how the building of the sidewalk is handled. The sidewalk remains to be completed, and a certificate of zoning compliance cannot be issued until either 1) they have completed the sidewalk, 2) agreed to a payment in lieu of the construction of the sidewalk acceptable to the Council, or 3) posted a performance bond of 125% of the cost for the completion of the sidewalk. Any of these options would need to be brought back to the Council.

Currently the only item for action would be for the Town to accept the grant of an easement for the purpose of a sidewalk. This is one of the steps required for the property to be in compliance with their Special Use Permit. Councilman VonCanon asked if the acceptance of the easement required the Town to build the sidewalk. Mr. Eggers stated it did not. The acceptance of the easement is one step in the process but there would still be the question of if Mr. Woods builds the sidewalk, or the Town accepts a fee in lieu of building the sidewalk.

Councilman Tufts motioned to accept the grant of easement for a sidewalk and was seconded by Councilman VonCanon. The motion passed unanimously.

Manager Owen asked to poll the Council on their feelings about fee in lieu of building the sidewalk to gauge where the conversation may go. The conversation being the need and desire for a sidewalk in that location now or not and the construction of the sidewalk. It was discussed that it would be less desirable to have a Town maintained sidewalk at this time in that area.

Water Shortage Response Plan

Manager Owen addressed the Council. He explained that North Carolina General Statute 143-355 (I) requires that each unit of local government that provides public water service must develop and implement water conservation measures to respond to drought or other water shortage conditions as set out in a Water Shortage Response Plan. The plan must be revised to reflect changes in relevant data and projections at least once every five years. The Town has a plan in place, and this would represent our 5-year update. Any revisions to the plan are required to be published 30 days prior to adoption. This meeting will represent the publishing of the new document and staff will ask that the Council consider adoption of the updated plan at the February Council meeting.

Historic Banner Elk School Site Project Update

Town Manager Rick Owen gave an update to the Council on the Historic School Project. He stated that the curb and gutter is done on phase 1 behind the fire department and along the road, and binder coat of asphalt is also done. He explained that the Town is keeping the finished area closed to protect the curb and gutter, and the binder coat. He further explained that the work has stopped until spring due to weather conditions. The work will begin again in spring on the remainder of the project. The Town is still working on the lighting and landscaping plan. He also stated that the charging stations for EV's and e-bikes are being researched as well.

Manager's Update and Staff Reports

Town Manager Rick Owen provided the Council with staff reports.

Manager Owen updated the Council that in their last meeting they had instructed Mr. Eggers to contact Mr. Woods about him paying all fees owed to the Town and the signing of his annexation agreement. Mr. Owen stated that those 2 things had been done.

Mayor Lyerly thanked Chief Hodges for his year-end report.

Other Business

There was no other business.

Adjourn

With no further discussion, Councilman VonCanon motioned to adjourn and was seconded by Councilman Lecka. The motion passed unanimously, and the meeting adjourned at 6:46 pm.

Approved: _____
Mayor Brenda Lyerly

Attested: _____