

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – September 14, 2010

I. CALL TO ORDER

Mayor Rick Owen called the regular meeting of the Beech Mountain Town Council to order at 2:03 p.m., Tuesday September 14, 2010 in the Town Hall Council Chambers. Other Council Members present were Paul Piquet, Rick Miller, Alan Holcombe and Cindy Keller. Town Attorney Stacy C. Eggers IV was present. Staff members present were Town Manager Randy Feierabend; Town Clerk Jennifer Broderick, Public Utilities Director Robert Heaton, Public Works Director Riley Hatch, Fire Captain Robert Pudney, Police Chief Jay Hefner and Town Planner James Scott. There were a number of interested parties in the audience.

II. Invocation – John Troxler presented the invocation.

III. Pledge of Allegiance – All present joined in the Pledge of Allegiance to the flag.

IV. Adoption of Agenda – Mayor Owen indicated that the agenda would stand as presented.

V. Approval of the Minutes – August 10, 2010 Regular Meeting – Mayor Owen stated that Section VIII. New Business b. Genesis Presentation – Relocation Plan needed to reflect that Council Members Keller and Holcombe had voted nay. Councilman Miller motioned to approve the August 10, 2010 minutes with the correction. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

VI. Public Comment – Susan Halliburton of 123 Skiway Circle spoke on behalf of Genesis Wildlife Sanctuary. Mrs. Halliburton informed Council that Leslie Hayhurst is now acting as president of Genesis Wildlife Sanctuary. Mrs. Halliburton stated that Genesis has been recognized as a 501(c) 3 charitable organization since 1992. The mission of Genesis is to rescue, rehabilitate and release wildlife. A secondary and most important mission is to provide permanent refuge for wildlife that is unable to return to the wild. A third mission is to provide rescue, rehabilitation and re-homing of exotic birds, reptiles and mammals. All non-releasable wildlife, both indigenous and exotic are given permanent refuge at the Genesis Wildlife Conservation Center to be used in educational programs, both on site and in their outreach programs. Genesis is asking the Town to lease Genesis approximately 5 acres behind the Sewage Treatment Plant. Genesis will develop the 5 acre tract through a licensed contractor placing a multi-use manufactured modular building on site to be used as its base of operations. Genesis wishes to construct 10 to 12 wildlife habitats for the housing and care of wild animals. Genesis asks that the Town issues a good faith letter 10 days from this date advising Genesis that the Town agrees to the above proposal pending the negotiation of the lease with Genesis. In addition Genesis is asking the Town to install the water and sewer lines to the building when required. Genesis suggests that the trees cleared for the purpose of constructing the driveway and placing the building be used by the Town as beams to construct a bridge across the ravine between the 5 acre tract and the Buckeye Recreation Center.

Leonard Wolf of 122 Greenbriar Road stated that Greenbriar Road should be paved; rationalizing that the road has an enormous amount of traffic caused by people taking short cuts off the Parkway to get to the Recreation Center.

Frank Steele of 107 Christie Way stated that he has always admired the way that Council and staff have made this one of the most beautiful places on earth to stay and play. Mr. Steele requested that the Town Manager speak with Mountain Electric and convey what they are permitted to do to the Town's property with regards to tree trimming. Mr. Steele felt that Mountain Electric should be required to remove the whole tree instead of being allowed to butcher the tree. Mayor Owen directed Mr. Steele to speak with Manager Feierabend. Mayor Owen stated that Mountain Electric is a Cooperative and that as such all residents had a voice.

VII. New Business –

- a. **Appointment of Town Attorney – Mayor Owen** – Mayor Owen introduced Attorney Stacy ‘Four’ Eggers IV to Council. Councilman Holcombe motioned to approve the appointment. Councilman Miller seconded the motion and the vote passed unanimously.
- b. **Vehicle Tax Settlement for Avery and Watauga – Nancy Johnson** – Councilman Miller motioned to approve the vehicle tax settlement for Avery and Watauga. Councilman Holcombe seconded the motion and the vote passed unanimously.
- c. **Property Tax Settlement for Avery and Watauga – Jessica Heaton** – Councilman Miller asked how the Town was dealing with larger delinquent accounts. Manager Feierabend stated that staff was already working with the previous Attorney to remedy this and would continue to work with the new Town Attorney Eggers. Councilman Holcombe motioned to approve the settlement. Vice Mayor Piquet seconded the motion and the vote passed unanimously.
- d. **Charge Tax Collector to Collect Taxes – Jessica Heaton** – Vice Mayor Piquet motioned to approve. Councilman Holcombe seconded the motion and the vote passed unanimously.
- e. **Volunteer Fire Department Easement – Robert Pudney** – Fire Captain Robert Pudney spoke on behalf of the Beech Mountain Volunteer Fire Department. Mr. Pudney stated that the Fire Department was selling a lot to Fred Barth, who in return was turning over an easement to the Town. Mayor Owen indicated that Attorney Eggers had just received the contract to review. Vice Mayor Piquet motioned to approve the contract as long as it was approved by Attorney Eggers. Councilman Miller seconded the motion and the vote passed unanimously.
- f. **Acceptance of Fox Crest Subdivision – James Scott** – Town Planner James Scott informed Council that Fox Crest is dedicating all of its roads, water and sewer infrastructure and all related easements to the Town. Mr. Scott advised that Council had the following information in their agenda packet; Fox Crest’s offer of dedication, Fox Crest’s engineer’s letter, Town engineer’s letter, letter from the bond company and a copy of the final plat. Mr. Scott stated that the one year maintenance bond would be issued as soon as the Town accepted the improvements. Mr. Scott recommended that Council approve the acceptance of Fox Crest on the condition that the bond company issues the bond. Attorney Jeff Walker spoke on behalf of the

developer stating that the bond company will immediately put the bond in place once the subdivision is accepted. Mr. Walker asked that Council accept the dedications without a condition so that there would be no issue with the bond company. Mayor Owen asked which usually comes first. Mr. Walker stated that he has been wrestling with that situation. Manager Feierabend stated that Council should accept subject to receipt of the bond. Mr. Walker requested that Town Attorney Eggers create the wording for the Town's acceptance. Vice Mayor Piquet wanted to know why the maintenance bond only covered 25%. Manager Feierabend stated that the Town's ordinances stipulated this amount. Vice Mayor Piquet was worried about the Town only being covered for such a small percentage. Manager Feierabend stated that the water and sewer lines were already four years old and would not be covered under the maintenance bond. Mayor Owen stated that there is no reason for the Town not to accept the property. Vice Mayor Piquet moved to accept the project as presented on the condition that the bond was secured. Councilwoman Keller seconded the motion and the vote passed unanimously.

- g. *Fox Crest – Speed Limit – James Scott*** – Mayor Owen asked how Council felt about the speed limit being reduced to 15 mph. Vice Mayor Piquet stated that he drove it today and did not see the need to change the speed limit since it was not even possible to go 25 mph on most of the road. Manager Feierabend stated that road designs have to meet North Carolina Department of Transportation standards and that this road does not meet these standards. With this being the case there is a legality issue from a design point why this road should be designated at 15 mph. The design problem that was done 3 to 4 years ago and that Engineer Michael Goliber had signed off on the road. Town Engineer Consultant Marion Rothrock was of the opinion that this speed limit needed to be lowered in order for the Town to accept the roads. Councilwoman Keller felt that safety should be more important than convenience. Mr. Rothrock stated that there are two curves in this subdivision that are significantly less than the standard. Mr. Rothrock felt it was better to reduce the speed limit for the whole subdivision. Councilman Miller wanted to know why the engineering firm Davis Martin and Powell did not perform their duties as they should have when putting in the road. Councilman Holcombe motioned to approve that the speed limit for the Fox Crest subdivision be set at 15 mph. Councilwoman Keller seconded the motion and the vote passed unanimously.
- h. *Memorandum of Understanding for Placement of 911 Equipment – Jay Hefner*** – Police Chief Jay Hefner stated that Watauga County had a crash that lasted for approximately 20 minutes with their communication system and that as a result they were installing new 911 equipment. Captain Jeff Virginia was present representing Watauga County. Watauga County is requesting that the Town store a computer rack with their fail safe system. There would be no expense to the Town and if Council approves the placement of this equipment then Beech Mountain would function as Watauga County's backup system should their 911 system crash. Mutually this would make Watauga County the Town's backup system should the Town's 911 system crash. Councilman Miller motioned to approve. Councilman Holcombe seconded the motion and the vote passed unanimously.

- i. ***Request for Tourism Development Authority Director - Fred Barth*** – Fred Barth thanked Council for accepting the easement. Mr. Barth stated that the Tourism and Development Authority needed a Director pointing out that this position would be a position that eventually pays for itself. Mr. Barth requested that the Town help fund this position. Mayor Owen stated that this is not a new idea and that he did agree that the Tourism and Development Authority does need a full time employee. Mayor Owen stated that this is the first time that this Council has been presented with this idea. Councilwoman Keller asked if this employee would need to be paid \$50,000. Manager Feierabend stated that this cost reflected the base salary along with the additional cost to the Town to provide benefits. Councilwoman Keller stated that hosting events has been very important for the Chamber. Mr. Barth felt that these events should have more to do with the Recreation Center and that the Town should focus on hiring a professional. Vice Mayor Piquet felt that the Tourism and Development Authority was formed to administer the occupancy tax revenues and not to be subsidized by tax payer dollars. Vice Mayor Piquet stated that when the designs of the Recreation Center were being completed that was when Town Council approached the State to raise the occupancy tax rate from 3% to 6%. One-third of the revenues stimulated from this collection were to go to the Recreation Center and this money should not be taken away. Councilman Holcombe stated that the money that has been going to the Recreation Center does need to go to the Tourism and Development Authority to hire a professional to advertise and keep the economy up. The Town needed to start funding the Recreation Center from their general tax fund. Mayor Owen stated that the law dictates that one-third of occupancy tax must be used on infrastructure projects. Mayor Owen stated that if Council wished to see this topic on next months' agenda then they should contact Manager Feierabend or himself. John Troxler, of the Chamber of Commerce, stated that with Peggy Coscia retiring the Tourism and Development Authority did take the amount of money allocated for that positions salary out of the budget. By October there will only be one part time employee at the Chamber.
- j. ***Perry Park Pump House – Councilwoman Keller*** – Councilwoman Keller stated that there was a question brought up during the Planning Board meeting of why the Town wanted to clean up the front street when the Town has not cleaned up other areas on the mountain. Councilwoman Keller hoped that Council would decide to tear down the Perry Park Pump House and sell what it could for scrap metal. Vice Mayor Piquet felt that it would cost more to refurbish the building. Councilman Miller wanted to know if the Town could put in restrooms at this location. Councilman Miller felt that this was an ideal location with the hiking trail going through there as well as there already being a park. Mayor Owen asked staff about the condition of the building. Manager Feierabend stated that the roof was the worst part of the building and that the most economic thing for the Town to do was to tear the building down and then if Council chose to do so, build a smaller restroom facility. Public Works Director Riley Hatch stated that staff did use the building for storage for water valves, etc. Mayor Owen recommended that staff come up with a storage solution for Council so that Council could make a decision on this at their upcoming Council meeting.

- k. Teen Volunteer Adventure Core – Eric Jelinski** – Recreation Program Coordinator Brie Powell stated that the Teen Volunteer Adventure Core was created for kids that were too old for camp. This program provided an opportunity for the youth of the community to give of themselves to activities that improved the community. There were a total of 7 volunteers that logged 1,000 hours in 6 weeks. Mayor Owen thanked Mrs. Powell for the work that she had put into this program. The names of the Teen Volunteer Adventure Core that participated in the program and were to receive certificates from Council were; Grant Aiessa, Logan Fox, Seth Manilove, Will Vickers, Leanne Casto, Illeana Garcia and Lior Shufflita. Council commended the participants volunteerism over this past summer. Councilman Miller motioned for Mayor Owen to sign the certificates. Councilman Holcombe seconded the motion and the vote passed unanimously.

VIII. Old Business

- a. Update on Water and Sewer Study – Marion Rothrock** – Mr. Rothrock stated that this study began back in June. The two issues that he has been dealing with are sewer overflow and the loss of Town water. Utilities Director Robert Heaton has been collecting background information on the sewer systems to determine the inflow in order to locate the biggest problems. In addition staff has begun smoke testing the sewer lines. In dealing with the Town’s water issue leak detectors have been ordered and will be here by the end of the month. Once these are put in then Mr. Heaton will begin gathering the data. Mr. Rothrock stated that the basic field work and analysis would take place up into November. The next step would be to correlate the data. This information should be ready around February. The final report is to be submitted to Council by May of next year. Mayor Owen stated that staff is working on replacing some of the fire hydrants. Manager Feierabend stated that the fire hydrant project was dealing with the most damaged hydrants first.
- b. Genesis Relocation Plan – Randy Feierabend** – Manager Feierabend informed Council that the State did not like Genesis’s proposed one year plan and as a result Genesis was presenting Council with an alternative plan which would have all animals removed within 6 months of August. Staff recommended that Council approve the relocation plan. Vice Mayor Picket motioned to accept the new plan and for the Town to submit the plan to the North Carolina Department of Natural Resources for their approval. Councilman Miller seconded the motion and the vote passed unanimously.
- c. Genesis Request for Support – James True** – Mayor Owen stated that in the past Council has made a small donation to Genesis in the budget but that this year they did not. Manager Feierabend stated that Genesis has asked that \$1,000 be donated to assist them with the removal of the animals. Mayor Owen asked that Council consider contracting with Genesis in the future for their assistance with animal control on the mountain. Councilwoman Keller motioned for Council to donate \$1,000 to Genesis. Mayor Owen seconded the motion and the vote passed unanimously. Mayor Owen instructed staff to keep up to date with Genesis’s progress.

- d. Building Height – James Scott* – Town Planner James Scott presented Council with the proposed ordinance change. Councilman Miller clarified that the maximum height was still being measured from a corner of the building but asked if the term footprint referred to the principal structure. Mr. Scott stated that was the intention. Councilman Miller motioned to approve. Vice Mayor Piquet seconded the motion and the vote passed unanimously.

IX. Town Manager and Staff Reports –

Streetscape – Manager Feierabend stated that surveys have been completed and that public meetings have been held to gather public input. The Beech Mountain Club has offered manpower. Staff is requesting approval to move forward immediately with the first 1,000' using a gravel surface until the final surface can be determined in the spring. It would require Attorney Eggers to review the easement agreements and then to get the agreements signed off on. In addition to keep the public informed staff proposed that a brochure go out with the next utility billing. The cost would be approximately \$450. Manager Feierabend stated that the project would start at Elderberry Ridge Road. Town Planner James Scott stated that staff is currently wishing to move forward on the first part of the plan which is the Gateway. The brochure would also be soliciting donations. Mr. Scott stated the sidewalk would be 5' wide which allows wheelchairs to pass. Mr. Scott confirmed that he was still working with the North Carolina Department of Transportation with regards to the crosswalk. Mr. Scott stated that the area had been marked and measured last week. Manager Feierabend stated that this area has been marked in red if anyone cared to view the layout. Vice Mayor Piquet indicated that Council had already budgeted for this project. Mayor Owen asked if any Council Member wished for this project not to start. No Council Member was against.

Budget Amendment – Manager Feierabend stated that this amendment request stemmed from Attorney Paletta recommending the Town increase their insurance coverage to \$5,000,000 during the month of July after the budget had already been set for the year. Councilman Miller motioned to approve the budget amendment. Councilman Holcombe seconded the motion and the vote passed unanimously.

Storm Damage – Manager Feierabend stated that Federal Emergency Management Agency confirmed that they will be sending the \$8,000 from the storm damage.

108 Hawthorne Road – Manager Feierabend stated that this lot was being offered to the Town free and clear with no back taxes due. Councilman Miller motioned to approve the lot donation to the Town. Councilman Holcombe seconded the motion and the vote passed unanimously. Attorney Eggers was directed by Council to prepare the deed.

TDA Chairman Resignation – Manager Feierabend stated that the acting Chairman of the Tourism and Development Authority, Charlie Burleson, did resign. Vice Mayor Piquet stated that the person Council appointed would serve out Mr. Burleson's term. Councilman Holcombe motioned that Judy Decker fill out the rest of Mr. Burleson's term with Vice Chair Calder Smoot taking over as the committees Chairperson. Vice Mayor Piquet seconded the motion and the vote passed unanimously. Mayor Owen instructed staff to get together information regarding the terms and limits for the Tourism Development Authority.

Manger Feierabend informed Council that the Clerk was already getting information together on all committees to review.

Pinnacle Inn Resort – Manager Feierabend stated that Mr. Waszkowiak, representing the Pinnacle Inn Resort Homeowners Association had requested to meet with him as well as Utilities Director Robert Heaton to discuss the location of the Pinnacle Inn’s meter. Manager Feierabend stated that the solution for the location of the meter was that an agreement between the Town and the Pinnacle Inn be made which would state that the Pinnacle Inn would only be responsible for leaks that are on their property. Attorney Eggers stated that this agreement needed to be put into writing between the Pinnacle Inn and the Town so that there would be a clear understanding of whose responsibility each section of the line would be. Attorney Eggers stated that he would need to review the Town’s ordinances before finalizing. Manager Feierabend reiterated that Council was permitting staff to move forward with this agreement with the Pinnacle Inn if after review Attorney Eggers stated that this agreement did not conflict with any of the Town’s ordinances.

Homeowner Cutoff – Manager Feierabend asked that Council allow staff to include a brochure with the utility billing to remind customers of the potential of busted pipes at their residencies when they leave their homes unattended and their water not shut off. Councilman Miller motioned to approve. Vice Mayor Piquet seconded the motion. Councilwoman Keller recommended that staff cut down on the wording. Mayor Owen called the vote and it was unanimous. Mayor Owen instructed that if staff was sending this out with the same mailing that the other brochure is going out with that they check the cost of postage.

Utilities – Utilities Director Robert Heaton stated that currently radio read meters were being installed on Skiway Circle. Everything has been completed from Meadowview up to the top of Emerald Mountain. Christie Way has been completed as well. After Skiway Circle meter replacement will begin on Wedling Weg. Over 100 radio read meters have been installed and 30 to 50 transfers have been completed. Councilwoman Keller asked about the response for the homeowner cut offs. Mr. Heaton stated that the responses had varied because some homeowners are confused about the meter being their property. Vice Mayor Piquet asked if there are some homeowners that are not electing to have their cutoff installed while the meter is being changed out. Vice Mayor Piquet stated that staff needs to keep track of those without a shut off valve who were not electing to have a shut off valve put in while their new meter was being installed because they were in violation of the Town’s ordinance. Manager Feierabend stated that these homeowners had a set period of time to become compliant. Mr. Heaton stated that once the paperwork comes back from the contractor then these homeowners are being notified of their violation with the Town’s ordinance. Councilman Miller suggested half a page of the brochure that was to be sent out with the utility billing should be used to inform homeowners that the meter is the Town’s property and therefore the homeowner should not be accessing the meter box.

Presentation of Certificate - Mayor Owen presented Logan Fox with his certificate from Council which recognized his efforts through the Teen Volunteer Adventure Core Program. Mayor Owen stated that he hoped Mr. Fox would continue to stay involved in the community.

Mayor Owen stated that Council would take a short break at 4:34 p.m.

X. Closed Session – Pursuant to NC GS 143-318.11(a) (3) Attorney Client Matters and NC GS 143-318.11(a) (6) Personnel Matters – Council returned from their break at 4:47 p.m. Councilman Miller motioned to go into closed session at 4:48 p.m. Vice Mayor Piquet seconded and the motion and the vote passed unanimously. Vice Mayor Piquet motioned for Council to come out of closed session at 6:25 p.m. Councilman Miller seconded the motion and the vote passed unanimously.

XI. Other Business – Councilman Miller motioned that Town Manager Randy Feierabend should receive a one time bonus in the amount of \$5,000. Councilman Holcombe seconded the motion and the vote passed unanimously.

XII. Adjourn – Vice Mayor Piquet motioned to adjourn the meeting at 6:30 p.m. Councilman Miller seconded the motion and the vote passed unanimously.

Minutes approved by Town Council on October 12, 2010.

Mayor

ATTEST:

Town Clerk