

MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – August 14, 2018

CALL TO ORDER – Mayor Renee Castiglione called the regular meeting of the Beech Mountain Town Council to order at 3:00 p.m., Tuesday, August 14, 2018 in the Town Hall Council Chambers located at 403 Beech Mountain Parkway, Beech Mountain, North Carolina 28604. Other Council Members present were Barry Kaufman, Carl Marquardt, Weidner Abernethy, and Wendel Sauer. A quorum was present. Town Attorney Stacy C. Eggers, IV was present. Staff members present included Town Manager Tim Holloman, Finance Officer Steve Smith, Interim Town Clerk Katherine Johnson, Police Chief Tim Barnett, Director of Infrastructure Robert Heaton, Planning Director Preston Yates, Special Projects Director Riley Hatch, Fire Chief Robert Pudney, Utilities Superintendent Daniel Davis and Parks and Recreation Director Sean Royall.

- I. Adoption of Amended Agenda** – Councilman Sauer motioned to approve the amended agenda. Vice Mayor Kaufman seconded the motion, the vote carried unanimously.
- II. Closed Session** – At 3:00 p.m., Councilman Sauer moved to enter closed session pursuant to N.C. Gen. Stat. §143-318.11 (a)(3) for the purpose of discussing attorney-client matters. The motion was seconded by Vice Mayor Kaufman and passed unanimously.
- III. Invocation** –Town Manager Tim Holloman presented the invocation.
- IV. Pledge of Allegiance** – Mayor Castiglione led the Pledge of Allegiance to the flag.
- V. Other Business** – There was no other business.
- VI. Consent Agenda** – Mayor Castiglione opened the floor for Council to take action on the consent agenda. Councilman Sauer motioned to approve the consent agenda. Vice Mayor Kaufman seconded the motion, the vote passed unanimously. The consent agenda included:
 - a.** July 10, 2018 – Regular Meeting
 - b.** July 10, 2018 – Closed Session Meeting
 - c.** July 23, 2018 – Special Meeting
 - d.** Deed Transfer from Beech Mountain Sanitary District
 - e.** Annual Tax Settlement – Current Year & Prior Years
 - f.** Order to Collect Taxes

VII. Public Comment –

Wilson King, of 405 Beech Mountain Parkway, said he did not expect to be here. I was here a month ago and we had important issues to discuss. Thank you to the Council, Beech Mountain is going back to the way it used to be. A beautiful place. Our sign down the road, says welcome cyclist. Bikers are back on the roads without fear of getting hit. I am confused about why golf carts bring up such a complicated problem. In my efforts to talk to people, I have learned a lot of different inputs. One said golf carts are environmentally friendly. Then I found out some golf carts have gas. Another concern that I heard is what if someone opens up a business and rents them out. Someone said there were only 40 private golf carts. Finally, someone said what if we just allow golf carts to go to the recreation area and golf course. This may be a solution. I suggest we gather research, talk to people, and come up with a solution. Also, the city-wide speed limit is 25 mph on our roads. The common practice is to add 5 mph to the speed limit. 30 mph is too fast for our roads. We should change the speed limit on the gravel roads to 15mph, and 20 mph on other roads.

Monie McCoury of 6091 Hwy 421, Bristol, Tennessee, said we are no longer on the mountain. Does the town have any idea that our sign was removed? I did not remove the sign. He asked Chief Barnett to keep a look out for our sign. We rent that space there. We are no longer on Beech Mountain. We will leave it there to promote tourism. We lease the property, so we will leave our sign up. Please keep an eye out for our sign. It is not okay to vandalize our property. That is all I have. We still love this mountain.

Barbara Piquet, of 121 Hollow Tree Road, said in 2002 the town acquired three flat lots on Pinnacle Ridge Road for a memorial park. They were zoned by the Council for this purpose. This is a great opportunity to add a memorial park to the town plan. Perhaps this is your opportunity to appoint a committee to determine how the town can move forward with this project. A memorial park would be wonderful for those that want their remains to stay on Beech Mountain. Remember, many people are just dying to stay on Beech Mountain forever.

Frank Steele, of 107 Christy Way, said he wanted to echo what Wilson King said about the golf carts. I have ridden up and down this mountain since the mid-70s. Somehow this golf cart issue has floated to the top. I can make arguments for both sides. Whatever this Council decides to do, I want to warn you for the safety of both the golf cart driver and others. Look at this as an opportunity to modify and repair an ordinance to what it should be. Whatever direction you choose to go, keep safety and legal protection in front. Make sure that no homeowner can start a business to rent out golf carts.

VIII. Public Hearing

a. Public Hearing on Ordinance Section 154.071 'Watershed Protection Ordinance' –

Councilman Sauer motioned to open the public hearing on Ordinance Section 154.071 'Watershed Protection Ordinance'. Vice Mayor Kaufman seconded the motion. Mayor Castiglione announced that there will be a change to this ordinance. She said for commercial uses we are changing it from 5% to 10% for balance of the watershed. There were no comments from the public during this public hearing.

Mayor Castiglione asked for a motion to close the public hearing on Ordinance Section 154.071 'Watershed Protection Ordinance'. Vice Mayor Kaufman motioned to close the public hearing. Councilman Sauer seconded the motion, the vote passed unanimously.

IX. New Business

a. Discussion and action upon Ordinance Section 154.071

Councilman Sauer wanted to make a motion with the change of 5% to 10%. Councilman Kaufman seconded the motion. There was no discussion.

The ordinance passed with a five to zero vote. All Council members voted in the affirmative.

b. Discussion and action upon the request for approval to have West Consultants finalize and closeout the contract for the construction for the Water Treatment Plant upgrade project

Councilman Sauer said we had a presentation earlier in closed session discussing what the contractor wanted for the final payment of the water plant. The contractor wants \$157,000 for the project. I make a motion that we agree to pay \$78,500 in liquidated damages. We want to retain \$78,500 in liquidated damages. Councilman Abernethy seconded the motion. Attorney Eggers, IV, clarified that this will closeout the contract for the construction of the Water Treatment Plant upgrade project. There was no other discussion from the Council. The vote passed unanimously.

c. Bear Resistant Trash Cans for Town Properties and Trails

Mayor Castiglione said we will talk about the bear resistant trash cans. Councilman Abernethy said we need to follow our own ordinance. The trash cans do not meet the ordinance. I haven't seen an issue up there, but, since we have an ordinance we should follow it. Councilman Sauer said he

reviewed the ordinance itself and it does not require bear proof containers. It basically specifies wood containers and it even grandfathered in those with no tops on it. So, if you had an open container you did not need to have a lid. Councilman Marquardt asked if the containers that are currently there meet this ordinance. Councilman Abernethy said the container is a wooden bin with no lid. Councilman Abernethy said it has not been an issue, but, he thinks in our high traffic areas, we should have containers that you see in national parks. The high traffic areas need better containers. Town Manager Tim Holloman said we will place 4 bear proof containers through private donations. One will be at the Town Hall, visitor center, and 2 at the recreation center. Holloman said if we would do any more this year, we would put one at the boat dock. Mayor Castiglione asked Parks and Recreation Director Sean Royall if the boat dock is an issue. Royall said the recreation center gets hit every week, if the bears can't get into the recreation center they will go to the boat dock. Holloman said the boat dock garbage can would be \$1,500 with shipping. Vice Mayor Kaufman moves to buy the one trash can for the boat dock. Councilman Abernethy seconded the motion. Councilman Abernethy asked when it will come. Holloman said it will be here before Christmas. All were supportive. The vote passed unanimously.

d. Discussion of Curbside and alternate trash collections methods

Town Manager Tim Holloman said the Town Council had a Town Hall meeting last month. Around 60 people were in attendance. The Sanitation Committee started meeting in March to look for alternatives. We discussed that regardless we will have compactors at our new convenience center once it is built. So, that should help some. Soon we will order a garbage truck if we do not switch from curbside. We do have a survey that's almost ready to go out, if Council wants to still do the survey. If we don't switch from curbside, we will order the truck in September and it will take six months to get here. We are having some trouble with our trucks once in a while. Mayor Castiglione asked if we were still down one truck. Public Works Director Robert Heaton said we got the truck back yesterday. Councilman Sauer said it was clear at the Town Hall (meeting) that people wanted to continue curbside pickup. I also picked up from what people were saying it's not Beech Mountain residents. It's the renters. When people leave, they usually leave on Sunday night or Monday morning. To limit the problem, we should do pickups Thursday, Friday, Sunday, Monday, and Tuesday. When I would go down to visit my sister in Florida, I would leave at 4:00 am. We should open the convenience center at 4:00 am on Sunday and Monday. We can maybe work it out with the police department. I think we should change the days and hours of the pickups. Vice Mayor Kaufman asked what the maximum price is we can charge in regards to penalties. Attorney Eggers, IV said a civil penalty can be up to \$500. In certain circumstances it can be higher if it is a public safety issue. Mayor Castiglione said we heard from many people

that we should not penalize those doing the right thing, but we should penalize those doing the wrong thing. We do an escalated penalty, there is no warning anymore. Public Works Director Robert Heaton said the penalties include: (1) fee to pick it up so thirty dollars, and (2) cost to pick it up and \$100 fine. Heaton said in the current ordinance, the maximum fine is \$100. Vice Mayor Kaufman said he is looking into changing the ordinance, so it is higher than \$100. I think we should start off with a higher fine the first time. If they don't change, put a bear proof container on their property, and have the resident pay for it. Attorney Eggers, IV said this may be done as a condition of collection. Councilman Abernethy asked how many fines there have been. Heaton said there has been 22 fines in the last six months. Councilman Abernethy said he is for removing all the trash cans. I think there needs to be a service for our older residents, so we can work with them. The town could purchase a bear proof container for them and have them pay for it. Vice Mayor Kaufman said it's not the residents, it's the renters. I have someone on my street that rents out his property. Ever since then, we have had to clean up four times for them. The renters do not care. Councilman Marquardt said he does not have trash pickup at his house. It works for me. But, many people are in favor of keeping them. We are supposed to serve the community. This is what the community wants. Mayor Castiglione said there should be an incremental fine where it may be \$200 for the first one, \$350 for the second one, and \$500 for the third one. Councilman Marquardt said shut off their water on the third warning if we really want to solve the problem. If you want to stop this, you need to make the property non-rentable. Attorney Eggers, IV said that cannot be done. Mayor Castiglione said for the fourth time, we get the bear proof garbage containers, and they pay for it. Councilman Sauer said the fee could go onto the utility bill. If they do not pay the utility bill, then their water will be shut off. Councilman Marquardt said if it gets put on the utility bill, he will be supportive. Mayor Castiglione said if this doesn't help in a year, say goodbye to your garbage. At that time, we would have tried everything. This year we should do the three fines and make them severe, so people learn. Councilman Marquardt said the total cost for everything including installation will go on the utility bill. Councilman Marquardt said the limited hours of the convenience center affects my business. There should be one dumpster that people can get to 24 hours, with cameras to stop contractors dumping at night. There should be a single dumpster with a shoot that people could throw their garbage away 24 hours. Town Manager Tim Holloman said Robert Heaton and I have been talking about it. If we are open 24 hours, we will need more employees. We are wearing our guys out for the amount of overtime. Robert Heaton said he is not against keeping it open. I was asked to clean it up. I can leave it open, but don't yell at me if it's a mess on Monday morning. The guys are working 25 hours of overtime a week. Councilman Abernethy asked if they could just hire someone. Tim Holloman said we don't have it in the budget. The Council

must approve that. If we want to open it 24 hours we may need 6 more employees. Mayor Castiglione said the problem is that people leave early in the morning and they need to put the trash somewhere. The best solution I have heard, is what Councilman Marquardt said. We could leave it closed and have a dumpster with a shoot on it that they can access it 24 hours. Robert Heaton said he has an idea. I can think this out. Councilman Abernethy said two months ago the convenience center was spotless. Mayor Castiglione said the truck broke and that's what caused the mess. Councilman Abernethy said this is the first I have heard that the truck is broken. I think a little communication would be good especially for something this significant. I think an email should go out to inform us. Tim Holloman said in the future we can send out an email. But, the trucks have been up and down. It's not like it's been out for a month. Tim Holloman said we are still doing the survey. If Council waits a year to do away with curbside pickup, I can tell Robert Heaton to get the new truck. Mayor Castiglione said we need to wait to get the survey back before we can get the new truck. Tim Holloman said we will try to get the survey out as soon as possible. Mayor Castiglione addressed Councilman Abernethy's comment about not knowing about the truck. She explained that communication goes both ways. We need to communicate with Tim Holloman as well.

e. Discussion of Golf Carts

Councilman Abernethy said he needs clarity. The ordinance says that golf carts can only drive to and from the golf course for the purpose of playing golf. Attorney Eggers, IV said the way it has been enforced by the police chief in the past, if someone is going to the golf course for other amenities at the club that would be included. Attorney Eggers, IV said he is not aware of anyone cited for this. Councilman Abernethy said golf carts are not and have not been an issue. I disagree with your assessment because people on golf carts can go to the club pool or any club facility. What you are saying is that people could go to the Alpen House, that is a club facility. So, they can travel down Beech Mountain Parkway to go to the Alpen House. Attorney Eggers, IV said we need to refer to the officer's discretion on how they interpret that. Councilman Abernethy said its black and white. You can either do it or you can't. Vice Mayor Kaufman said the ordinance list streets that you can drive on, that's a road that you cannot drive on. Councilman Abernethy said this ordinance needs to be tightened up. What if we have one officer that says it's okay and another officer that says it's not okay and they give you a ticket. The ordinance either needs to be amended or it needs to be enforced. Mayor Castiglione said so you are basically saying you want the police department to give out tickets to someone going to the tennis court. We are a complaint driven ordinance town. Councilman Abernethy said so why have the ordinance. If I am driving down the road and I throw trash out and a police officer sees me throw trash out my window, I can't get a ticket unless a

neighbor complains. Mayor Castiglione said the police officer can give you a ticket because he saw you do it. It's like speeding. If a police officer sees you speeding they can give you a ticket or not give you a ticket. Councilman Abernethy said so the police officer can see a golf cart going down the road. Mayor Castiglione said the police officer could stop a golf cart and give them a ticket or not give them a ticket. Just like speeding. Attorney Eggers, IV explained that Council can implement any ordinance amendments they want. Councilman Abernethy said he is in favor of golf carts going anywhere on Beech Mountain. Councilman Marquardt said in the long run, I would be interested in a more golf cart friendly community. Given the provisions of headlights, taillights, rear view mirrors, licensed drivers only and have private golf cart owners register their vehicle with the town. Councilman Abernethy said we need to be consistent with our ordinances. Either we have them and enforce them or we don't. Mayor Castiglione asked Councilman Abernethy why he voted for this ordinance last month. Councilman Abernethy said he specifically asked Attorney Eggers, IV with the current ordinance that we have were the UTVs in violation. And he said yes. Mayor Castiglione asked why he voted for it. Councilman Abernethy said because that is what I was told to get the UTVs off the mountain. Vice Mayor Kaufman said it's a safety issue with golf carts. Having them drive on curvy roads is an accident waiting to happen. Mayor Castiglione said this is very complicated. This is a huge public safety issue. I drove on Greenbriar for the last two weeks, I went around a blind curve and SUVs are cutting curves and almost hit me head on. If that was a golf cart, someone would be splattered all over the ground. It would not be the person in the car. Right now, I need to do research. I need to know if other mountain communities allow golf carts. I need to do more research. I will not vote for this until I do research. Councilman Abernethy said there has been more bike accidents on Beech Mountain than golf cart accidents. Councilman Abernethy said the ordinance needs to be tightened up and why can Beech Mountain Club Members have golf carts and others can't. I think this is discrimination. Attorney Eggers, IV said if there is a need to change, my role is to enact what the council says the policy needs to be. Councilman Sauer said at this point in time we have an ordinance, the police department can use their discretion to stop the person and may talk to them and may or may not issue a ticket. Councilman Abernethy said you can't pick and choose. Councilman Sauer said police do it all the time. Mayor Castiglione said they do it all the time with speeders on the mountain. Do you go 25 mph on this mountain all the time? If you go over 25 mph are you going to get a ticket. Councilman Abernethy made a motion for an ordinance that says golf carts can be driven to and from the Beech Mountain Club and any club facility. There was no second. Councilman Sauer said in pursuit of section 30.43 of the Town of Beech Mountain Code of Ordinances, I move that we prevent discussion of this matter for six months. Vice Mayor Kaufman seconded the motion. The vote passed unanimously.

X. *Town Manager and Staff Reports*

Town Manager Tim Holloman said the LED lighting at Town Hall is finished. The floor has been done. This Friday, there will be a ribbon cutting at the Avery County Extension Center. They came to our Water plant opening. We had \$49,000 Shane Park Donations. We had a fundraiser evaluation this past week.

XI. *Town Council Comments*

Mayor Castiglione asked John Merritt how many new houses we are doing up here now. John Merritt said we have had 4 brand new houses. Mayor Castiglione said thank you to Frank Steele for being the DJ at the street dances. They have been really fun, and you do a great job.

Councilman Sauer thanked Brian Barnes and the golf course for the support of the fire department. Thank you for volunteering at the concerts and driving around.

Councilman Marquardt said thank you for everyone coming. I am disappointed about what Monie McCoury said about his sign. We are better than that. I am also interested in learning more about the memorial park.

XII. Adjourn – Upon motion by Councilman Sauer, seconded by Councilman Abernethy, the Council voted unanimously to adjourn at 5:25 p.m.

Minutes approved by Town Council on September 11, 2018.

Renee D. Castiglione, Mayor

ATTEST:

Katherine Johnson
Interim Town Clerk

**ATTACHMENT TO MINUTES
BEECH MOUNTAIN TOWN COUNCIL
Regular Meeting – August 14, 2018**

- I. Ordinance Section 154.071 ‘Watershed Protection Ordinance’