



MINUTES

Regular Town Council Meeting

4:00 PM - Tuesday, December 10, 2019
Council Chambers

The Regular Town Council of the Town of Beech Mountain was called to order on Tuesday, December 10, 2019, at 4:00 PM, in the Council Chambers, with the following members present:

COUNCIL PRESENT: Mayor Barry Kaufman
Vice Mayor Jimmie Accardi
Councilmember Kelly Melang
Councilmember Erin Gonyea
Councilmember Weidner Abernethy
outgoing Mayor Renee Castiglione
outgoing Councilmember Wendel Sauer
outgoing Councilmember Carl Marquardt

COUNCIL EXCUSED:

STAFF PRESENT: Town Manager Tim Holloman
Attorney Stacy Eggers, IV
Town Clerk Tamara Mercer
Interim Town Manager Bob Pudney
Public Utilities Superintendent Daniel Davis
Building Inspector Jeff Fish
Director of Tourism and Economic Development Kate Gavenus
Public Works Superintendent Matthew Clawson
Town Planner Preston Yates
Police Captain Renee Carpenter
Director of Special Projects Riley Hatch
Director of Infrastructure Robert Heaton
Parks and Rec Director Sean Royall
Chief of Police Tim Barnett

1. CALL TO ORDER

2. ADOPTION OF AGENDA

2.1. Mayor Castiglione requested a motion to adopt the agenda.

Motion

Wendel Sauer made a motion to adopt the agenda and Weidner Abernethy seconded the motion. CARRIED. unanimously.

3. INVOCATION- DEWEY CYCLONE BRETT

4. PLEDGE OF ALLEGIANCE

5. PUBLIC COMMENT

- 5.1. Mr. Wilson King of 407 Beech Mountain Parkway reviewed his history of living 48 years on Beech Mountain, noting that it is a special magical place. We are afforded a natural scenery, filled with animals and plants, but our scenic views are fragile, fraught with real world shocks. He noted the time when the developers, Caribbean Corporation went bankrupt, and dedicated people stepped in and incorporated the town and adopted ordinances to protect the area and that was led by good people. He warned not to slide back into mediocracy. He encouraged the new council to support those efforts, as they are charged with protecting the mountain. Mr. King congratulated the newly elected Councilmembers and thanked the outgoing Council for a good job and protecting the mountain.
- 5.2. Mr. Alan Holcombe of 137 Raven Road thanked the Councilmembers for serving the citizens throughout the years and noted we should work together for what lies ahead.
- 5.3. Mr. Frank Steele of 107 expressed appreciation to the outgoing Councilmembers for their service and expressed the same concerns regarding the Town working together. He noted the unnecessary division politics has caused among neighbors and requested Council to serve the Town regardless of personal issues. He noted the opportunities for new beginnings and stressed that the personal animosities should end. Council's goal should be the betterment of the Town. Mr. Steele's other concerns were regarding employees. He asked that Staff be allowed to perform their respective jobs without micro-management, as a pleasing work environment helps recruitment and retains employees. He stressed a positive work environment and recognized contributions made to Beech Mountain by Council members and citizens.
- 5.4. Larry Tyner of 304 St. Andrews Road said he agreed with the previous citizens and was concerned about the year-round residents. He said micro-managing a sore subject. He commended the Fire Chief, Bob Pudney and the Police force for taking care of the community. He thanked Council and the Staff who know what their job encompasses. Mr. Tyner said we need to attract good people and we need unity.

6. CONSENT AGENDA

- 6.1. Adoption of Minutes- regular meeting November 12, 2019 closed session November 12, 2019 & special meeting November 21, 2019

Councilman Abernethy inquired if his revisions were included in the closed session minutes, to which Ms. Mercer replied that the corrections were applied to the November 12, 2019 closed session meeting minutes.

6.2. Parcel Donation 227 Charter Hills Road lot 7

Motion

Wendel Sauer made a motion to adopt the Consent Agenda items, 6.1 and 6.2; the regular meeting minutes for November 12, 2019, closed session minutes for November 12, 2019 & special meeting minutes for November 21, 2019 and to accept the parcel donation at 227 Charter Hills Road, lot 7, PID:1950-22-4849-00 and Barry Kaufman seconded the motion. CARRIED. unanimously.

7. DEPARTURE OF CURRENT COUNCIL MEMBERS AND COMMENTS

7.1. Councilman Sauer wished all the best to the new council members and he added the newly elected officials should talk to other regarding issues.

Councilman Marquardt said it was an honor and privilege to serve as rewarding and enjoyable. He mentioned all civil servants should be afforded simple courtesy. The incoming members represent all citizens as per the Oath of Office, and he wished them patience and wisdom as they face many difficult decisions with open minds and fairness.

Councilman Marquardt noted the lack of civil decorum this past year and regretted that rumors may have been repeated. People should ask questions and listen before repeating outrageous innuendo as the community is better than simple rumor mongering. He thanked Mayor Castiglione for her fair-minded and respectful leadership even though many times they were on opposing sides of issues, which is a credit to her office. He encouraged the incoming officials to be respectful considering the viewpoint of others.

Mayor Castiglione thanked the Police Department for their community assistance, and she noted that last week an officer followed through on a dispatch call through the 'senior watch program' and rescued a resident. Officer Bonestell saved a citizen who lives alone, and she is in the hospital alive and well due to his diligence. Mayor Castiglione congratulated the department's professionalism.

8. OATH OF OFFICE OFFICIATED BY DISTRICT 24 COURT JUDGE, THE HONORABLE REBECCA EGGERS-GRYDER: ELECTED OFFICIALS CEREMONY

8.1. Oath of Office Ceremony for newly elected officials: Kelly Melang, Jimmie Accardi, and Erin Gonyea

The Honorable Rebecca Eggers-Gryder, District Court Judge, presided over the ceremony and administered the Oaths of Office.

9. TOWN MANAGER CONDUCTS SELECTION OF MAYOR

9.1. Mr. Holloman requested a nomination from Council for a presiding mayor.

Motion

Jimmie Accardi made a motion to nominate Barry Kaufman as Mayor of Beech Mountain and Erin Gonyea seconded the motion. CARRIED. unanimously.

10. TOWN MANAGER CONDUCTS SELECTION OF VICE MAYOR

10.1. Mr. Holloman requested a nomination for a presiding vice mayor.

Motion

Erin Gonyea made a motion to nominate Jimmie Accardi as Vice Mayor and Kelly Melang seconded the motion. CARRIED. unanimously.

11. CONSENT AGENDA - PART II

11.1. 2020 Council / Boards Meeting Schedule & FY:2020-2021 Budget Calendar

Motion

Jimmie Accardi made a motion to adopt the 2020 calendar and schedule for Town Council, the Boards and Committees and Kelly Melang seconded the motion. CARRIED. unanimously.

11.2. High Country Council of Govt Representative-

Mayor Kaufman asked the Council members if someone would volunteer to serve and Councilmember Melang volunteered to serve as the Beech Mountain representative to the High Country Council of Governments, to which a consensus agreed.

12. OLD BUSINESS- ELIGIBILITY OF COUNCILMAN ABERNETHY TO SERVE ON BEECH MOUNTAIN TOWN COUNCIL

12.1. Eligibility of Councilman Abernethy to Serve on Beech Mountain Town Council

Attorney Miller referred to his statement made at the last council meeting and he reiterated that this council does not have jurisdiction to challenge Councilman Abernethy's candidacy. In his legal opinion he may continue to serve.

Attorney Eggers referred to Beech Mountain Code of Ordinances which addresses the eligibility to serve and said it does not address candidacy issues. Under §160A-4, qualifications to serve, and in the Code, Title III, § 30.60 Qualifications for Office, he said this Ordinance was passed by the Town in 1982, 'the Council shall determine the qualifications of any member' adding that this determines if a member fails to meet any of the statutory or constitutional requirements of office. Attorney Eggers stated this is the

procedure and process by which the Council should consider the eligibility. The article from Professor Joyce of the School of Government, cited by Attorney Miller, does concur with the Town code as this Town Council does have the authority and the ability to consider the qualification of its members to continue to serve.

In response the Councilman Abernethy's question whether this Council could move forward with the issue or could decide to not address the issue, to which Attorney Eggers stated that was correct, as the Town's Attorney's Office does not have a position on what the Council should do; the Council is free to come to its conclusion based upon the evidence presented. Since the issue was raised as to the qualifications of Councilman Abernethy's residency the ultimate conclusion, is reserved by the five members. Attorney Eggers advised proceeding with a motion which includes Councilman Abernethy's vote on the subject.

In response to Vice Mayor Accardi's question as to the consequences or jeopardizing the seat if the vote were to be a 3 to 2 split, to which Attorney Eggers said there is some concern if the Board were to take no action that it potentially leaves actions of Council open to challenge if Mr. Abernethy were to be the deciding vote. The Attorney recommended Council should proceed and address whether Mr. Abernethy is qualified or not, if a challenge were to go to Court, the Court would consider whether the Council addressed the issue and considered all the facts and after reviewing all the information, that the Council made the determination. He advised this puts the Town in a stronger position for future legal challenges that might be based on this issue.

Motion

Jimmie Accardi made a motion to find that Councilmember Weidner Abernethy is eligible to continue to serve on Town Council and Kelly Melang seconded the motion. CARRIED. unanimously.

13. NEW BUSINESS

13.1. Resolution Authorizing Individuals for Deposit Accts. and Bank signatories-

In response to Councilmember Abernethy's question, Mr. Holloman explained the authorization for individuals of the Town to access deposit accounts for bank signatories, were the Mayor, the Vice Mayor, the Town Manager and the Finance Officer, to which there are two signatures required for a transaction.

Motion

Jimmie Accardi made a motion to adopt the Resolution No. 2019-07 to amend authorizing individuals for deposit accounts and bank signatories for Branch Banking and Trust, Mountain Community Bank, and Highlands Union Bank and Erin Gonyea seconded the motion. CARRIED. unanimously.

13.2. Councilmember Abernethy made a motion to terminate the employment of

the Town Manager, Tim Holloman and Councilmember Melang seconded the motion.

Mr. Holloman presented a personnel letter from his attorney and submitted it to the Town Attorney and to Council. Councilmember Abernethy noted the board needed legal representation into the allegations in the letter which were unwarranted involving himself. He stated the allegations were regarding comments made by him and the Council should still move forward with the termination of the Manager.

Attorney Eggers noted that under §160A -147, the town manger serves at pleasure of the Council. Procedurally Council can continue with the motion that is on the floor or it can discuss this as a personnel matter under closed session.

Councilmember Melang said she was voted in as a clean slate, so she suggested moving forward with a vote on the motion.

Vice Mayor Accardi said he was not comfortable proceeding with a decision at the present time as the Town was in peak winter season and he wished to make a well-informed decision, not a political one. Vice Mayor Accardi suggested basing the manager's evaluation off of performance and the new Council should give 90 days or more for a decision. He added that he did not campaign to remove the town manager and he wished to base a decision on performance and not on third party information.

Councilmember Gonyea said she seeks information first hand and performs her due diligence and it is her personal opinion that the Town needs to change and should move in the right direction. It is not personal, she has discussed the issue with her constituents, she is comfortable with a decision and has looked at the facts.

Motion

Weidner Abernethy made a motion to terminate the Town Manager's employment and Kelly Melang seconded the motion. CARRIED. 4-1 (opposed: Jimmie Accardi).

- 13.3.** Councilman Abernethy made a motion to appoint Chief Bob Pudney as Interim Town Manager and Councilmember Melang seconded the motion.

Mayor Kaufman stated that since there was no discussion indicated by Council, he called for the vote.

Motion

Weidner Abernethy made a motion to appoint Chief Bob Pudney as the Interim Town Manager and Kelly Melang seconded the motion. CARRIED. unanimously.

- 13.4.** Councilman Abernethy said he would make a motion to replace the Town

Attorney with the Law Office of Nathan Miller and Councilmember Gonyea said she seconded the motion.

Vice Mayor Accardi said he believed it is not a good time nor the proper fashion to replace the Town Attorney, and Mayor Kaufman agreed with Vice Mayor Accardi, noting it would be a hasty decision to replace the attorney based on emotion and not logic. Councilman Gonyea said she was not comfortable making a quick decision and wanted what is the best for the town, so she suggested further discussion regarding the matter.

Motion

Weidner Abernethy made a motion to replace the Town Attorney with the Law Office of Miller and Erin Gonyea seconded the motion. DEFEATED. 2-3 (opposed: Barry Kaufman, Jimmie Accardi, and Erin Gonyea).

- 13.5.** Councilmember Abernethy suggested that Council should recess the meeting for two weeks and to table the remaining items on the agenda to the date certain of December 23, 2019 at 4:00 p.m.

Motion

Weidner Abernethy made a motion to recess the meeting for two weeks and to table the remaining items on the agenda to the date certain of December 23, 2019 at 4:00 p.m. and Kelly Melang seconded the motion. CARRIED. unanimously.

14. TOWN COUNCIL COMMENTS

- 14.1.** Councilmember Abernethy reiterated he ran his election to help Beech Mountain and to work for the people on the mountain and he looked forward to communicating with and working with the new Council. He apologized for personal emails sent out in haste and vowed to work better with Staff and the Police Department specifically.

Councilmember Melang stated she ran on a clean-slate and promised to work hard for Beech Mountain and thanked the community for allowing her to serve.

Councilmember Gonyea thanked everyone for the support given to the new Council, noting the tough decisions to be made are not easy, but they will work together for the community.

Vice Mayor Accardi thanked the citizenry and said as a young, entrepreneur businessman, he looked forward to serving the Town and he appreciated the honor to serve.

Mayor Kaufman thanked Council for the honor of serving as mayor and noted he was on a learning curve and he thanked everyone for working together for the next two years.

15. TOWN MANAGER AND STAFF REPORTS- CONTINUED TO DECEMBER 23, 2019 RECESSED MEETING

- 15.1. Department of Infrastructure Reports
- 15.2. Fire Department Monthly Report
- 15.3. Police Department Monthly Report
- 15.4. December TDA Report
- 15.5. Parks and Recreation November Report
- 15.6. Planning and Inspections Report 2019-11

16. RECESS REGULAR MEETING TO DECEMBER 23, 2019

- 16.1. Mayor Kaufman requested a motion to recess the meeting to a date certain and the meeting was suspended at 5:10 p.m. until further business occurring on December 23, 2019 at 4:00 p.m.

Motion

Kelly Melang made a motion to recess to December 23, 2019 at 4:00 p.m. and Weidner Abernethy seconded the motion. CARRIED. unanimously.

Town Clerk

Mayor, Town of Beech Mountain