



# MINUTES

## Regular Town Council meeting Meeting

3:00 PM - Tuesday, November 12, 2019  
Council Chambers

---

The Regular Town Council meeting of the Town of Beech Mountain was called to order on Tuesday, November 12, 2019, at 3:00 PM, in the Council Chambers, with the following members present:

**COUNCIL  
PRESENT:** Mayor Renee Castiglione  
Vice-Mayor Barry Kaufman  
Councilman Carl Marquardt  
Councilman Weidner Abernethy  
Councilman Wendel Sauer

**COUNCIL  
EXCUSED:**

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

### 1. CALL TO ORDER

1.1. Mayor Castiglione requested a motion to move into closed session.

#### **Motion**

Wendel Sauer made a motion to recess to closed session and Weidner Abernethy seconded the motion. CARRIED. unanimously.

### 2. CLOSED SESSION - PURSUANT TO NC GS 143-318.11 (A) (6)

## **PERSONNEL (7) ATTORNEY CLIENT MATTERS**

### **3. ADOPTION OF AGENDA**

- 3.1. Mayor Castiglione reviewed revisions to the agenda and said as advertised we have the Public Hearing for the Local Government Commission application for a financial agreement for the new Public Works project, which was moved from Consent Agenda to New Business, and to be added under the Consent Agenda, the Attorney's Office has a Consent Order filing to enforce the zoning ordinance, also under New Business, Councilman Abernethy requested the Finance Report be added; and she asked for a motion to adopt the agenda with the aforementioned revisions.

#### **Motion**

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

### **4. INVOCATION- TIM HOLLOMAN**

### **5. PLEDGE OF ALLEGIANCE - MAYOR CASTIGLIONE THANKED THE VETERANS WHO HAVE SERVED OUR COUNTRY**

### **6. PROCLAMATION HONORING JON ALAN & RICKY HOLCOMBE**

- 6.1. Proclamation Honoring Jon Alan Holcombe & Fredericka Marquardt Holcombe

Councilman Marquardt presented the Proclamation honoring the founding family, Mr. Jon Alan Holcombe and Fredericka (Ricky) Marquardt Holcombe.

### **7. CLERKS CERTIFICATION UNC SCHOOL OF GOVERNMENT- TAMARA MERCER**

- 7.1. Clerk's Certification Institute UNC SOG

Mayor Castiglione presented the International Institute of Municipal Clerk's School of Government certificate to Town Clerk, Tamara Mercer.

### **8. PUBLIC HEARING FOR OFFICIAL ZONING MAP**

- 8.1. Mayor Castiglione requested a motion to open the Public Hearing and Barry Kaufman made a motion to open the Public Hearing on the proposed Official Zoning Map and no one elected to speak regarding the proposed map and Wendel Sauer seconded the motion. CARRIED 5-0

Mayor Castiglione noted that there are no zoning changes to the map. The Official Zoning Map includes the new GIS software and the format is upgraded, which was submitted by Senior Planner, Preston Yates.

#### **Motion**

Barry Kaufman made a motion to close the Public Hearing for the Official Zoning Map and Wendel Sauer seconded the motion. CARRIED. unanimously.

## **9. PUBLIC HEARING ON THE RESOLUTION FOR THE PUBLIC WORKS FINANCING AGREEMENT G.S. §160A-20**

- 9.1. Mayor Castiglione requested a motion to open the Public Hearing and Barry Kaufman made a motion to open the Public Hearing on the Resolution authorizing the filing of an application for a financing agreement in accordance with §160A-20 and Wendel Sauer seconded the motion. CARRIED 5-0 No one elected to speak regarding the resolution.

### **Motion**

Barry Kaufman made a motion to close the public hearing and Wendel Sauer seconded the motion. CARRIED. unanimously.

## **10. PUBLIC COMMENT**

- 10.1. David Hellenthal of 105 Upper Holiday Lane F23 recounted his history of growing up on Beech Mountain and of living in the west coast. Mr. Hellenthal said he walks all over the mountain and picks up litter all over here as he did in Alaska and Washington State.

He said he wished to get on the agenda in the future in order to discuss a proposal. He has set-up non-profits and can organize groups to assist with keeping the mountain free from trash. Mr. Hellenthal presented pictures of areas where he has removed trash from waterways and in culverts. He removed 53 yards of trash, plastic, and bottles, etc. from a waterway. He wishes to keep the mountain aesthetically pleasing. He worked with Fred cleaning the roadside down to Banner Elk. Mr. Hellenthal is willing to work with staff and the community setting up a nonprofit and he requested help from volunteers who wish to become members and for creating a name for the program.

Councilman Abernethy thanked Mr. Hellenthal for his efforts as he had encountered him cleaning one day and stopped to pick-up trash bags and brought the trash to the dump.

- 10.2. Ms. Belle Bennett of 405 Beech Mountain Parkway said she represented the homeowners on SkiLoft Road and addressed the proposed ordinance for SkiLoft Road. Ms. Bennett said she believes the homeowners on SkiLoft Road are abused. She discussed the garbage bins and said they get destroyed by animals and the residents are fined. As to the parking spaces, they follow the rules. She said the Town's snow equipment pushes the snow into the parking spaces.

She recounted how she had seen over 6' snow plowed into the spaces and the homeowners are punished. Ms. Bennett questioned how the homeowners are required to plow if no one is there and she is opposed to the ordinance.

## **11. CONSENT AGENDA**

- 11.1. Consent Order filing to enforce zoning ordinance at 107 Spruce Hollow Lane
- 11.2. Adoption of Council Minutes October 1, 2019
- 11.3. Approval to create a Capital Reserve Fund
- 11.4. 2019 Public Works Facility Capital Project No. 2019-10

### **Motion**

Wendel Sauer made a motion to accept the Consent Agenda and Barry Kaufman seconded the motion. CARRIED. unanimously.

## **12. NEW BUSINESS**

- 12.1. Monthly Finance Report-

Councilman Abernethy had requested a monthly fuel summary report and he had questions regarding the fuel summary as the report received has discrepancies considering that the gallons used for the Police Department showed one month at 4,100 gallons of diesel. He added that since the Police Department uses gas the report is not accurate. Mr. Holloman replied that the numbers must have been transposed from the gas to diesel. He said he would review this and fix the report. Mr. Holloman added that Public Works was looking into getting updated software equipment for the gas and diesel pumps as the output information has been inaccurate for the usage report.

Councilman Abernethy continued and said for the past 6-8 months, the expense report was not correct as the budgeted amount for the Police Department is \$15,000 but the line items for the Department showed \$0. The Planning and Inspection's department is also budgeted for \$15,000 and is not reflected in the administration line items, so he questioned the revenue reports for inaccuracy.

Mr. Holloman noted that the fuel summary report may not have been accounted correctly, Staff has noted the problem and the fuel system software is being replaced. He said Staff will get the proper consumption information to Council.

- 12.2. Local Government Commission Resolution for financing agreement

Mayor Castiglione reviewed the application for the financing agreement: The Town of Beech Mountain desires to finance the new Public Works Facilities Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20.

### **Motion**

Carl Marquardt made a motion to accept the financing agreement installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; to construct a \$5,200,00.00 new Public Works Facility and Barry

Kaufman seconded the motion. CARRIED. unanimously.

**12.3. Comprehensive Plan 2020-2035**

Mayor Castiglione noted the time-line and work process of the Planning Board and Staff to compile and research all the data for the Comprehensive Plan. The citizens also met with the Board and Staff and gave input for the document. She thanked everyone and Chairman, Pete Chamberlain for their hard work but suggested a Table of Contents is needed for referencing. Councilman Marquardt agreed with the Mayor and thanked the citizens, staff and board.

**Motion**

Barry Kaufman made a motion to adopt the Comprehensive Plan 2020-2035 for the Town of Beech Mountain. The plan was developed by the Planning Board and Planning staff starting in February 2018, with input and participation from the public and staff members from various departments. On October 29, 2019, the Planning Board recommended adoption of the plan in that regular meeting. Upon consideration, Town Council approved the Comprehensive Plan 2020-2035 and Weidner Abernethy seconded the motion. CARRIED. unanimously.

**12.4. Official Zoning Map**

Mayor Castiglione requested consideration of adoption of the Official Zoning Map.

**Motion**

Wendel Sauer made a motion to adopt the Official Zoning Map for the Town which amends the zoning ordinance by adopting a new official map, there are no new re-zonings as part of this action and Carl Marquardt seconded the motion. CARRIED. unanimously.

**12.5. SkiLoft Road Snow Removal Ordinance amendment**

Mayor Castiglione requested a motion to approve for discussion the SkiLoft Road Snow Removal Ordinance amendment and Barry Kaufman made a motion to open for discussion the amendment to the ordinance specifically to SkiLoft Road Snow Removal and Wendel Sauer seconded the motion.

Mr. Holloman stated Staff had a request to initiate the ordinance amendment for the purpose of a tool to address the complaints by residents of SkiLoft by other people who were not keeping the parking areas clean from snow. If the ordinance amendment were in place the police can respond, the Town could tow or send out letters that residents must keep their parking areas clean of snow. Mr. Holloman explained why the complaint was received as the homeowners have noted that just ticketing the offenders does not help the problem when the parking space is snowed in and the renters have parked illegally.

Councilman Abernethy said the proposed ordinance was poorly written and it doesn't address the problem. He questioned why it was listed in the Health and Sanitation chapter for nuisances. He explained how cars are parked on SkiLoft and said this is a parking issue. He read the ordinance and questioned how it was drafted.

There was further discussion of police enforcement, ticketing and towing and the current procedure for addressing the issue on SkiLoft Road and the impetus for addressing the complaints and problems on the road.

Attorney Eggers explained the reason for the placement of the issue in the code and specifically codifying it in Chapter 94; as Chapter 94 addresses nuisances and deals with certain land uses or land conditions including the cleaning of lots. Attorney Eggers added that this allows the Town to plow and/or clean parcels and solve the problem. It empowers the town to abate the nuisance in order to ticket or to charge for snow removal for non-compliance with the code.

### **Motion**

Barry Kaufman made a motion to accept the amended ordinance to Chapter 94: Health and Sanitation; Nuisances on SkiLoft Road and Wendel Sauer seconded the motion. DEFEATED. 0-5 (opposed: Barry Kaufman, Wendel Sauer, Carl Marquardt, Renee Castiglione, and Weidner Abernethy).

## **13. OLD BUSINESS - NONE**

## **14. TOWN MANAGER AND STAFF REPORTS**

**14.1.** Mr. Holloman reviewed updates for Council and said the blood drive was a success. The Streetscape Project is underway and soon the new Public Works facilities will begin construction since the finance agreement was approved.

Mr. Royall reviewed the Halloween Haunted House event at Buckeye Creek Recreation Center on October 25th. He said over 200 people attended the event and there were 22 booths. He thanked the volunteers and local businesses for their donations. The Famous Brick Oven for the pizzas and desserts and Rascals for the hotdogs.

The Holiday Market upcoming event will have 42 vendors with musical entertainment on November 30th and from 5-7 Santa Claus will be available for the children.

**14.2.** Police Department Monthly Report

**14.3.** TDA November Report

**14.4.** Infrastructure Report October 2019

**14.5.** October Parks & Recreation Report

**14.6.** Planning and Inspections Report 2019-10

## 15. TOWN COUNCIL COMMENTS

15.1. Councilman Sauer said there have been accusations of back door meetings with no evidence of such deals. Councilman Sauer said he requested the list of registered voters from the Board of Elections for Avery and Watauga Counties but there was an absence of Councilman Abernethy's name on the lists. He noted he conducted further research.

Councilman Sauer presented the North Carolina Board of Elections record stating that Councilman Abernethy changed his voter registration on July 26, 2019 from Watauga County to Burke County and he submitted the registration. Councilman Sauer read the NC General Statute §160A-59: Qualifications for elective office, and also read NC State Constitution Article 6, Section 8: dis-qualifications for holding elected office and NC GS 163A-1586: Residency Clause, voting in municipal elections; wherein it states one is not entitled to reside in more than one city at a time. He presented a Deed of Trust on Councilman Abernethy's property in Burke County, reading the clause stating his primary occupancy as property address: 1925 Lake Acres Drive, Hickory North Carolina.

Councilman Sauer said on October 16, 2019, Mr. Abernethy signed a form for the Burke County Board of Elections office stating his residency is in Watauga County and he submitted the form. Councilman Sauer requested Councilman Abernethy to resign as he questioned if Councilman Abernethy is eligible to serve as a member of Town Council due to the residency question.

Councilman Abernethy thanked the veterans of the Town who served. He explained why he legally owns two houses and said he is not registered to vote in Burke County. He said he resides in Watauga County and his family resides in Burke County. Councilman Abernethy noted who he voted for in the Watauga County elections as he stated he lives on Beech Mountain.

Attorney Eggers said the Attorney's Office will research the elected official qualifications in order for members of Council to serve and to determine eligibility. He reviewed the hearing procedures to comply with the State's legal due process procedures. Attorney Eggers added his legal opinion serves the body of the Board and he encouraged Councilman Abernethy to retain counsel.

Vice Mayor Kaufman congratulated Erin Gonyea, Jimmie Accardi, and Kelly Melang on their election victory and hoped all can work together to avoid misunderstandings for the benefit of Beech Mountain.

Councilman Marquardt said he was not surprised by the residency controversy, but he thanked the public for allowing him to serve our Beech Mountain community. He wished good luck to the newly elected members and imparted advice of serving the community without gossip, to exercise common courtesy and for civil discourse to continue civilly serving Beech Mountain.

Councilman Marquardt paid tribute to the important citizens who have passed and are getting older: Bob Ash, Gene Bradshaw, Ray Costin, Jim

Linguist, Moe Wilson and other founding families, and asked that Council continue to celebrate citizens' contributions now, rather than honor folks after they have gone.

Mayor Castiglione noted that the Town has many part-time residents who are not able to vote and would like to participate. She said she is angry if a member on Council is not qualified to serve, and noted the Constitution is clear and it is a slippery slope at election time to change voter registrations and this is disturbing. She requested the Town Attorney to research the allegations.

Mayor Castiglione said she is grateful to have served the Town and citizens and thanked everyone. It has been both a pleasure, even with the challenges, and an honor to have served for four years.

## **16. CITIZENS' AGENDA COMMENTS**

**16.1.** Mr. David Hellenthal suggested the Town install cameras at the Convenience Center to which it was noted there are cameras installed.

## **17. ADJOURNMENT**

**17.1.** There being no further business, Mayor Castiglione requested a motion for adjournment at 5:14 p.m.

---

Town Clerk

---

Mayor, Town of Beech Mountain