



# MINUTES

## Regular Town Council meeting Meeting

4:00 PM - Tuesday, August 13, 2019  
Council Chambers

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The Regular Town Council meeting of the Town of Beech Mountain was called to order on Tuesday, August 13, 2019, at 4:00 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  
Fire Chief Bob Pudney  
Public Utilities Superintendent Daniel Davis  
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- PLEASE NOTE: SOUND WILL BEGIN AT PUBLIC COMMENT SECTION**

### 2. **ADOPTION OF AGENDA**

- 2.1. Mayor Castiglione noted that County Manager, Phillip Barrier could not attend, therefore agenda item 7.1, Avery Ambulance and Emergency Services, would be removed and postponed.

**Motion**

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

### **3. INVOCATION**

### **4. PLEDGE OF ALLEGIANCE**

### **5. PUBLIC COMMENT**

- 5.1. Ms. Jana Greer of 504 Oz Road read the letter and submitted into the record by Emerald Mountain, INC., Land of Oz, and the Leidy family, which was made apart of these minutes and listed in the Consent Agenda under item 6 contained in the meeting documents as submitted to Council.
- 5.2. Mr. Weston Wetzel of 503 Oz Road reviewed partnering efforts between the Town and Land of Oz. He reviewed the successes of Oz including events and noteworthy donations by Oz to the Town. Mr. Wetzel discussed the benefits of the partnership between Oz and the Town's Park and Recreation Department, specifically the use of the Emerald Outback by the community for hiking and biking. He said this is a public/private joint venture and the tenure of the easement for the Emerald Outback expires in 2021. He said the Land of Oz contracts with the Town's law enforcement and partners with the Ski Resort and Azalea Carriage for rides. He concluded that Oz supports the town and community. The traffic on Oz Road is from Oz, the residents and the Resort. He added that inclement weather is a factor in adding damage to the roadway.
- 5.3. Sean Barrett of 503 Oz Road discussed the benefits the tourists and visitors of Oz contribute to the Town. He noted the world-wide marketing of the Land of Oz. He cited the Governor's wife's attendance in 2017, as well as other note-worthy people. Mr. Barrett pointed out that the Town's 2013 Comprehensive Plan refers to Oz and Emerald Mountain, for its economic contributions as well as character defining contribution to the area. He also noted the Oz Park marketing campaign which in his opinion, impacts and promotes the Town with the advertising. Mr. Barrett discussed the positive social media and rate favorable on-line ratings, as well as the national television segments.
- 5.4. Ms. Cindy Venables of 1504 Beech Mountain Parkway asked for the Council's support to lower the speed limit on her extension of gravel road. She said this section of Beech Mountain Parkway is unique in that it ends at the trail-heads. There is a rock business located there and Ms. Venables noted, there is heavy truck traffic which makes it not safe. The dump trucks travel at 25 or 30 mph. This is dangerous at the blind curves for hikers, walkers and family pets. Ms. Venables suggested police officers ticket the speeders on the road. She is concerned with the dust and is in favor of a 15 mph speed limit on the gravel road.

### **6. CONSENT AGENDA**

- 6.1. Adoption of Minutes - June 24, 2019 Special called meeting & July 9, 2019 regular Council meeting
- 6.2. §Chapter 94.03 - Health and Sanitation typo correction

6.3. Census 2020 Complete Count Committee Appointment of the Planning Board

6.4. Emerald Mountain Letter

### **Motion**

Wendel Sauer made a motion to accept the amended consent agenda removing the budget amendment and moving it onto New Business and Barry Kaufman seconded the motion. CARRIED. unanimously.

## **7. NEW BUSINESS**

7.1. System Development Fee Study- Dale Schepers, Engineer with McGill Associates, P.A.

Mr. Schepers stated that the system fee study is a statutory requirement as adopted by House Bill 436. The State Legislators have prescribed how the impact fees may be collected for capacity enhancements in order to re-pay debt issued by a Town's water and sewer authority. The method of calculation and how that money is used must comply with the new regulations. This came about due to a law suit against the Town of Carthage by a developer who challenged the methodology for the fees charged, and Mr. Schepers added the end result is that a town's fee structure must conform to House Bill 436 in order to be considered valid.

Mr. Schepers noted the fee payments must be calculated as per the State's methodology as set forth by an engineer or financial firm. McGill Associates have conducted the proper methodology for over 15 towns across the State as prescribed by the law. The charges for capacity-related fees must pay for capacity, that is the purpose of the charge, and the system development fee must be calculated in accordance with House Bill 436 or that calculation of dollars is invalid and can't be charged to the customers of new development.

The Town must have valid system development fees in order to offset the costs of new development which hooks up to the water and sewer system. Mr. Schepers explained how the methodology is computed by several factors including the volume components, the value of the assets and the costs per gallon to be applied to the fee structure.

This allows for the planning and budgeting for future projected demand on the capacity of the system. Mr. Schepers reviewed the legal requirement called the nexus established between the capital program improvements and the future expected development for the population. The Comprehensive Plan is used to help calculate the rate of growth in order to meet demand which is congruent to the nexus relationship.

It is also a requirement to use the North Carolina Design Flow Standards to plan for additional capacity flow rates. This is required methodology using the defined flow rates. All these approaches establish the fees utilizing the flow data and calculations, the fee schedule is based on the engineers report as per

the new legislation.

There was a question and answer period regarding the law-suit which facilitated the legislation at the General Assembly level, the maximum ceiling amount of fees to be determined and the various scenarios and local conditions of the Town's water system. In response to councilman Abernethy's question, Mr. Schepers said this does not affect current rate customers, but allows the Town to charge and place the impact fees on new development. If this study were not completed, and this is not recommended; new development costs would be paid for by the current rate payers according to the newly enacted law.

### **Motion**

Barry Kaufman made a motion to call for a public hearing on the System Development Fee Study set for October 1, 2019 and Weidner Abernethy seconded the motion. CARRIED. unanimously.

## **7.2. Budget Amendment #2019-14**

Mr. Holloman reviewed the budget amendment stating that the increases and decreases in existing funds for the Water Utility expenditures was \$120,407 for administration, \$3,062 for water maintenance, sewer maintenance revenue adjustment for over \$9,000; therefore, the total adjustment to operating expenses was over \$52,000. The largest adjustment was for health insurance and professional services for the capital projects for ancillary costs.

In response to Councilman Abernethy's question, Mr. Holloman reiterated health insurance and professional services such as engineering costs were the largest contributors to the \$53,000 of expenditures.

### **Motion**

Barry Kaufman made a motion to accept Budget Amendment #2019-14 and Carl Marquardt seconded the motion. CARRIED. 4-1 (opposed: Weidner Abernethy).

## **7.3. Ordinance to amend Chapter 153: Minimum Housing Code**

Attorney Eggers reviewed the proposed amendment to the ordinance for the minimum housing code, specifically Chapter 153, subsection 153.08 (D) (13) Decks. The minimum housing code has been in effect since 1989 as a means to enforce building standards for residential, commercial and any rental dwellings. The ordinance addresses health, safety, and welfare of occupants allowing for routine inspections, and or complaint driven inspections which includes the enforcement mechanism for compliance.

The Attorney's Office and the Building Inspections Office, specifically Mr. John Merritt, worked on the language of the proposed amendment to address the construction and maintenance of decks. One of the most common issues

are the condition of decks on rental properties. Properties are aging and the decks are aging and are bearing large snow-loads; and decks are the largest offenders for rot and deteriorations. The proposed housing code would allow inspection of a subject site by voluntarily allowing an inspection or by complaint as to the condition of a deck.

Attorney Eggers noted that this ordinance establishes a voluntary deck inspection program, whereby the building inspector can make recommendations regarding the sufficiency and code compliance of the decks at the owners request.

There was a question and answer period regarding the enforcement, complaints, inspections and the citation and compliance with the ordinance versus the State building code. Attorney Eggers noted there is a CPR list for structure inspections including decks, addressing building code violations, construction dis-repair and condemnations, this proposed amendment is in addition to that list in order to enforce deck regulations.

Mr. Holloman reviewed the procedure if the amendment were adopted for mailing notices to rental property owners regarding the voluntary inspection program. He added hopefully this will encourage compliance. The Council had listed 'deck conditions' as a priority issue and requested Staff to address the issue of the condition of decks on Beech Mountain and this satisfies that goal. Councilman Marquardt noted that this applies to all deck structures on the mountain.

### **Motion**

Wendel Sauer made a motion to adopt the amendment to the minimum housing code ordinance as reasons noted in the recommended report and Barry Kaufman seconded the motion. CARRIED. 4-1 (opposed: Weidner Abernethy).

#### **7.4. Proposed amendment to Chapter §50.00 - §50.99 Solid Waste Management Ordinance-**

Briefly, Mr. Holloman noted that the agenda item presented before Council was for purposes of allowing Council to disseminate the information, as this was for informational deliberations.

Ms. Sarah Lapish, Planning Division Intern, reviewed the proposed revised definitions for the preparation of garbage receptacles to prevent animals in the trash and/or garbage receptacles. She reviewed the purpose and the intent of the ordinance revisions and explained the process whereby the Zoning Official could enforce regulations and the Public Works Department would implement trash pickup.

Ms. Lapish explained the specifications and the design suggested for the metal garbage bin dimensions, as recommended by Staff. Waste and debris was discussed as well as contractor restrictions, recycle materials, prohibited materials, and garbage fines, which are already implemented for those who are

repeat offenders. Mr. Holloman added that those repeat offenders receive fines and notices, and eventually can lose their trash collection service.

Councilman Abernethy said he was against implementing the new regulations while the Town still had open containers and not until we have the garbage compactors. He said there should be examples submitted as to what metal bins are available not just the drawings. There was further extensive discussion on the topic regarding the compactor, the Convenience Center compliance, fines and standards.

Mr. Holloman requested Town Council to email their suggestions to himself and Mr. Heaton, as to the direction Council would like Staff to move forward on the subject.

#### **7.5. Adopt-a-Street Program**

Ms. Lapish, reviewed the submitted report, stating the purpose of an Adopt-a-Street program is to encourage involvement by members of the community to work together with the town to remove and beautify our roadways, thereby freeing them of litter.

The agreement form was presented which includes the volunteers signatures, along with guidelines and safety procedures which need to be followed. Ms. Lapish reviewed the list of procedures and safety precautions to follow and said the initiative can be implemented throughout the year.

The Adopt-a-Streets program has been established for communities and civic organizations as well as private businesses and industry to contribute toward the effort of maintaining cleaner and more beautiful roadsides. Mr. Holloman noted the presentation to Council was for informational purposes at this time.

### **8. OLD BUSINESS**

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

9.1. The department reports were submitted and Mr. Holloman updated the Council on the various events, noting that the Police Department's 'National Night Out', was a success. This event takes place every year, but happens in Beech Mountain every other year, so next year it will take place in Banner Elk. The event was sponsored at the Ski Resort and in 2021 would again be held on Beech Mountain.

Mr. Holloman updated Council on the hill stabilization project at Buckeye Lake Recreation Center. The Streetscape Project has been delayed due to the sub-contractor not being a NCDOT certified contractor. Mr. Hatch, Special Projects Director, is working with the General Contractor to secure a DOT certified sub-contractor.

August 29th will be the bid opening for the Public Works Facility. The

Town held a successful pre-bid meeting, wherein approximately eight contractors attended along with a dozen material suppliers. Avery County is holding a hazardous waste program on August 24th. The location is behind the Avery County Board of Education. Mr. Holloman reiterated the Town Council Town Hall meeting will be held on August 22nd at 4:00 at Buckeye Lake Recreation Center. All citizens are encouraged to attend to voice their concerns and suggestions as well as encouraged to email or mail in topics of concern.

Mayor Castiglione noted that one can find additional information online for the Watauga Landfill on their website which posts the schedule for accepting hazardous waste. The Enduro Bike Race will be held on August 25th, which brings 200 bike racers as the Town, Police Department, the Resort and businesses prepare for one of the largest events of the summer.

- 9.2. Department of Infrastructure Reports
- 9.3. Fire Department Monthly Report
- 9.4. Police Department Monthly Report
- 9.5. TDA Report
- 9.6. July Parks & Recreation Report
- 9.7. Planning and Inspections Report 2019-07

## 10. TOWN COUNCIL COMMENTS

- 10.1. Councilman Marquardt agrees with Ms. Venibles that some gravel roads should be limited to the lower speed limit but not all should be at 15 mph.

Councilman Marquardt addressed and wished to clarify his position regarding the issue up on Oz. While he regretted that some comments he made at the Special Meeting on June 24, 2019 were unprofessional regarding the Land of Oz, he believes the business should be good neighbors in the area. The Land of Oz is nostalgic and has its history based on the mountain, there was a once a year reunion festival. What he objects to is that it has become a commercial enterprise with 7 or 8 weekends in the calendar year. He said if there is to be further expansion that needs to be addressed such as the safety and compliance issues. He is against further growth as continued growth is a negative to Emerald Mountain. This is a quality of life issue and the impacts to the area must be addressed in a comprehensive plan. Regulations should be strictly enforced to further commercial growth.

Vice Mayor Kaufman said the Special Meeting was to discuss the paving of the roadway. He personally has enjoyed Oz, but an expansion of Oz is of concern. The Town spends money maintaining the gravel roads. If there are costs of \$8,000 - \$10,000 a year maintaining the roads, then the Town needs cooperation with the residents as per the road paving policy to pave the road. Vice Mayor Kaufman thanked the Leidy's and said we appreciate the Emerald Outback and its mutual common ground for all to use and enjoy. He reminded everyone of the upcoming August 22nd Town Hall meeting where citizens can voice their concerns to Council.

Councilman Abernethy was concerned with the Lake Coffey project, the council vote and the over-budget construction costs. He objected to the costs and increasing the scope of the project adding additional amenities such as the community center, bathrooms, a kitchen and offices. The Town has wasted \$50,000 and staff recommends wasting additional monies to finish the design. He wants to hold the Town funds and projects accountable.

Councilman Sauer agreed with Vice Mayor Kaufman and said Emerald Outback is an asset to the Town. He congratulated Frank and Billy Jean Steel on their 50 year anniversary.

Councilman Marquardt noted that the scope of the Lake Coffey project changed in order to address the future and possible uses in the building and at the park, including the added amenities. He said the project changes were implemented by Council to find the highest and best usage, instead of only a parks storage facility. Councilman Marquardt said he questioned Councilman Abernethy's math, saying it was not a wasted \$50,000. The Town has paid for the services of architects and the plans are on the shelf for the future.

Mayor Castiglione addressed the Special meeting and the controversial issues regarding the paving of Oz Road. She added that in public meetings, every member can express their views. Unfortunately, there are disagreements, but the meeting topic was to address the paving of Oz Road and the additional benefits to paving the road not only to the homeowners but for the rentals, and the visitors to Oz as well. The impacts of the business must be addressed as it affects the Town and Beech Mountain and that roadway but people are always allowed to express themselves.

She commented that the Staff, businesses, Police Department and Parks and Recreation all worked together to make 'National Night Out' a huge success. And the Town's own Jana Greer, sang the Star Spangled Banner like a professional at Panther's Stadium.

## **11. CITIZENS' AGENDA COMMENTS**

**11.1.** Mr. David Conrad questioned the input from the citizens during the Public Comment section and Mayor Castiglione noted that any citizen may speak during the Public Comment portion of the meeting, Councilman Sauer added that the summer residents can speak since we have many people who are only here during certain seasons.

Mr. Joe Antonell of 484 St. Andrews Road, requested specifications for the proposed garbage containers, and suggested that the Town require a standardized container, wherein we may receive a discounted price.

## **12. ADJOURNMENT**

**12.1.** There being no further business, Mayor Castiglione requested adjournment at 5:40 p.m.

Note: The above minutes are not a verbatim record of the proceedings. Audio and/or video archives are recorded and accompany the meeting on the Town's Civic Engagement Portal at: <https://townofbeechmountain.civicweb.net/Portal/>

**Motion**

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

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Town Clerk

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Mayor, Town of Beech Mountain