



# MINUTES

## Regular Council Meeting

4:00 PM - Tuesday, November 13, 2018  
Council Chambers

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The Regular Council of the Town of Beech Mountain was called to order on Tuesday, November 13, 2018, at 4:00 PM, in the Council Chambers, with the following members present:

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

**COUNCIL EXCUSED:**

**STAFF PRESENT:** Town Manager Tim Holloman  
Attorney Stacy Eggers, IV  
Town Clerk Tamara Mercer  
Building Inspector John Merritt  
Chief of Police Tim Barnett  
Fire Chief Robert Pudney  
Director of Infrastructure Robert Heaton  
Parks and Rec Director Sean Royall  
Public Works Superintendent Matt Clawson  
Director of Tourism and Economic Development Kate Gavenus

### 1. CALL TO ORDER

- 1.1. Mayor Renee Castiglione called the meeting of the Beech Mountain Town Council to order at 3:00 p.m., for Tuesday, November 13, 2018 in the Town Hall Council Chambers located at 403 Beech Mountain Parkway, Beech Mountain, North Carolina 28604. Mayor Castiglione noted that the Council would convene at 3:30 p.m. for the closed session meeting and again reconvene at 4:00 p.m. for the regular meeting. (Clerks note: Attorney Stacy Eggers, IV presided over the closed session meeting and Attorney Joshua Coffey presided over the regular meeting).

### 2. ADOPTION OF AGENDA

- 2.1. Adopt Agenda

## **Motion**

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

### **3. CLOSED SESSION - PURSUANT TO NC GS 143-318.11 (A)(3) ATTORNEY CLIENT MATTERS**

3.1. At 3:30 p.m., Councilman Sauer moved to enter closed session pursuant to N.C. Gen. Stat. §143-318.11 (a)(5) for the purpose of discussing attorney-client matters. The motion was seconded by Vice Mayor Kaufman and passed unanimously.

### **4. INVOCATION-TOWN MANAGER TIM HOLLOMAN PRESENTED THE INVOCATION.**

### **5. PLEDGE OF ALLEGIANCE**

5.1. Veteran's Day-  
Mayor Castiglione led the Pledge of Allegiance to the flag wherein Mayor Castiglione further thanked our United States Veterans of past and current service to our country. She praised the military service of Mr. Alan Brister, a 92 year resident who served in World War II, the Korean War and the Vietnam War; for his duty and sacrifice to the country and is an important part of Beech Mountain and our community history.

### **6. PUBLIC COMMENT**

6.1. Citizen's comments-  
Mr. Hal Halliburton of 132 Skiway Circle thanked the Town of Beech Mountain Public Works Department for completing the paving of the roads and told those in attendance he appreciated the crew and their work.

### **7. CONSENT AGENDA**

7.1. October 9, 2018- Closed Session meeting minutes

#### **Motion**

Wendel Sauer made a motion to approve the October 9, 2018 Closed Session meeting minutes Weidner Abernethy seconded the motion. CARRIED. unanimously.

7.2. October 9, 2018 - Regular meeting minutes

#### **Motion**

Wendel Sauer made a motion to approve the October 9, 2018 Regular meeting minutes Weidner Abernethy seconded the motion. CARRIED. unanimously.

## 8. NEW BUSINESS

### 8.1. Request for two (2) additional Sanitation Worker Positions:

Town Manager, Tim Holloman reviewed the request for two staff positions at the Sanitation Convenience Center, previously referred to as the Recycle Center. Mr. Holloman stated there have been ongoing issues of excess garbage and general cleanliness and maintenance. Employees covering the work and have had to go into overtime working longer hours.

The industry standard for these types of centers are for an attendant to be present the entire time of operating hours. We are at mid-year asking for this budget amendment for two additional employees. Mr. Holloman added that even with cutting the Convenience Center hours to 6:00 p.m. we would still need two employees. The issue would be brought up again in the January/February next fiscal year budget talks however Council decides to consider the request.

There is considerable wear and tear on our man-power and the administration feels we need these additional employees. The additional costs also effects wear and tear on our trucks due to the unnecessary debris material we must take to the landfill. We are spending an approximate additional \$40,000 in added costs as no one is there to monitor and stop the debris material that is being dumped at the facility. Last year, two employees in sanitation left the Town of their own volition in Public Works and so the department was reduced by two employees. The Town thought it could do more with less, but current employees are being pulled off to address the sanitation issues.

Public Works also requests to change the hours of operation from 6-to-6. There is an after-hours 'garbage shoot' for those who may use the 'shoot' after hours. In response to Councilman Sauer's question regarding the requested budgetary amount, Mr. Holloman stated that the amount listed in the submission packet was for the whole year and so the amount would be less for the remainder of the rest of the year. The actual hire date may begin in January of 2019. The adjustment would be made as what Council decides to approve, so through January to June, that amount would be adjusted.

In response to Councilman Abernethy's question, Mr. Holloman said there are no positions open at this time, all staff positions are filled. Councilman Abernethy said he was not comfortable amending the budget as we are six months into this fiscal year's budget and he wondered if it should just be addressed during next year's budget deliberations.

Mr. Holloman discussed the additional costs for removing the tonnage of waste and additional hauling costs. He said we are at a break-even point when you consider the costs for the extra tonnage and for the cleanup issues at the Center. He explained the over-time hours worked in order for employees to keep up with the maintenance. We are pulling employees from other places in order to maintain the facility. Councilman Marquardt said if the crew needs the man-power then it is Council's job to give them the tools to complete the work

and it is not necessarily inappropriate to amend the budget.

In response to Mayor Castiglione's inquiry, Mr. Robert Heaton, Director of Infrastructure, explained what Public Works has been doing to keep up with the work-load. He described the over-time hours the sanitation workers have worked. He noted how we are covering the hours and pulling the truck drivers off routes to cover the Center. Charlie has worked 14 days straight. He explained the issues with contractors dumping items that are not allowed such as paint. This is happening when the Center is not manned, and the contractors know that there is no one on-site to halt the illegal dumping. He explained how the debris and waste levels pile up and the issues to trucking the waste off the mountain to Boone. The illegal dumpers seem to know when staff leaves so it depends on the level of service we want at the site.

Councilman Abernethy suggested cameras be installed to catch this activity and to fine those that abuse the Center. Cameras will also grant a level of safety on-site. To which Mr. Holloman added that out-of-state contractors might not be caught, or the camera is difficult in viewing the license plate. Industry standards and protocol could be followed to alleviate the problems. Mr. Heaton added the routines and schedules followed to keep up with the problem that we are running 1 to 2 trucks a day and at night time, the cameras might not give us a good visual vehicle description.

Attorney Joshua Coffey noted the problems with putting a wheel-lock on out-of-state vehicles as this would be a legal issue. There was further discussion of the procedures at the Center, the truck routes, staff's schedules and dumping issues and violations at the Convenience Center and why staff is requesting the positions. A garbage pass was suggested for residents of Beech Mountain and further discussion of requiring a garbage pass or a permit at the Convenience Center.

### **Motion**

Barry Kaufman made a motion which was amended by Vice mayor Kaufman to hire (1) one additional sanitation employee. Wendel Sauer seconded the motion. CARRIED. unanimously.

- 8.2.** Budget Amendment #2019-01-adjusted for (1) one employee for an additional \$20,000.

### **Motion**

Barry Kaufman made a motion to approve the Budget Amendment adjustment #2019-01 for (1) one employee sanitation worker Wendel Sauer seconded the motion. CARRIED. unanimously.

- 8.3.** Dog/Pet Control Ordinance :  
Mayor Castiglione reviewed the topic of adopting a dog/pet leash ordinance as a nuisance abatement policy as there is only voice control currently. She asked if we should require that dogs be on a leash outside. Vice mayor Kaufman believed a dog owner should have their pets on a leash. There is a

dog park where pets can run without a leash, but it is dangerous if dogs are not controlled and he is in favor of an ordinance.

Mr. Holloman stated that staff can work with the Attorney's Office and Police Chief Barnett's Office as to what an owner should be fined for dogs running at-large and to research other benchmark towns' violation policy.

Town Inspector, John Merritt explained his experience with enforcement and said the ordinance can state that an animal must be under your direct supervision and control at all times. The idea that an owner's pet is well trained dog and can be voice controlled does not address other problems and the leash law would clarify such issues.

### **Motion**

Barry Kaufman made a motion directing staff to research and bring back to council an ordinance for a leash law. Wendel Sauer seconded the motion. CARRIED. unanimously.

## **9. OLD BUSINESS**

### **9.1. SRP Loan for the Water System Rehabilitation Project (DWI Project No. H-SRP-D-17-0126)-**

Mr. Heaton stated that the State SRP loan is funded and once acceptance of the offer is conveyed by the Town to the State Division, the agreement is for a 20 year loan which is for the water system improvement and rehabilitation of the water lines in the Charter Hills section of town.

In response to Vice Mayor Kaufman's question regarding the interest rate of the State Loan, Mr. Holloman said it would be approximately 3.25. This rate is not locked in until the Acceptance by the offer is conveyed at which time the bank will lock in the rate. The reserve capital by the Town is \$34,000, Mr. Holloman explained this is the Town's portion for the improvements to be made.

### **Motion**

Carl Marquardt made a motion to accept the State SRP Loan Resolution for the Water System Project (DWI Project No. H-SRP-D-17-0126) Wendel Sauer seconded the motion. CARRIED. unanimously.

### **9.2. SRP State Loan Ordinance**

### **Motion**

Wendel Sauer made a motion to accept the State SRP Loan Ordinance Barry Kaufman seconded the motion. CARRIED. unanimously.

### **9.3. Bear Resistant Trash Container Ordinance (Short Term Rentals)**

Councilman Sauer moved to open the discussion for approving the

ordinance requiring Short Term Rentals to provide bear resistant containers and the motion for discussion was seconded by Vice mayor Kaufman.

Councilman Marquardt stated he is strongly opposed to this requirement for a new bear resistance garbage container as it would pertain to Short Term Rentals only as written. He stated that the Town's empirical samples show that we have a ratio of 58% to 42% of rental properties to home owner properties so what is being proposed is a solution to only 58% of the problem. The argument that there will be uniform cans and we will remove the wooden containers is not consistent. The Town would be passing the requirement to Short Term Rentals and be exempting ourselves, the home owners from the ordinance.

He agreed that the previous requirement that there be wooden bins with lids on the wooden bins is no longer working. This proposal that only a segment of the population must spend this money, is not right or fair and it won't solve this problem of the bears in the garbage. An ordinance addressing this problem must be applied to each and every one as property owners on the mountain. It is bad policy and bad optics if the ordinance does not apply to everyone. Councilman Marquardt does not support the document as written as it is not uniform and does not solve the problem. It is an added expense and burden to a segment which is not a protected class but an economic driver of this mountain. He would reluctantly support an ordinance if everyone needs to purchase the new bear resistant container, but this is wrong; as written.

Councilman Abernethy agreed with Councilman Marquardt, as it is a band aid on the problem. He discussed the option of working with wildlife experts to address the problem. We can remove the trash cans on the mountain or we can work to remove the bears. He wondered if the bears can be trapped and be removed as per the wildlife experts. In response to Councilman Abernethy's question as to the expense for the new bins, Mr. Holloman said the cost is approximately \$400 to \$1,200 for the full metal with steel mesh 32-gallon or for a 42-gallon container.

There was further discussion of the metal steel containers the costs and the mounting of them and for a timeline for compliance. Vice mayor Kaufman noted the fines are supposed to be high enough that people comply with garbage clean-up to which Mr. Holloman added people can change their habits and bring their garbage to the Convenience Center. Mr. Holloman explained how the bins looked aesthetically and the costs for the bins. Councilman Abernethy cautioned that we could pass a new requirement and still continue to have a bear/garbage problem. Mr. Holloman replied that we could implement the ordinance in 12 months and in phases to see if the metal steel mesh containers work and then bring everyone into compliance by next year. Councilman Marquardt disagreed with that experiment as it still forces the Short Term Rentals to comply first and then if it doesn't work we don't enforce this for everybody. Mr. Holloman suggested we could stop curb-side garbage service to which Mayor Castiglione noted we are deliberating the issue and not passing ordinances without first discussing all options.

Vice mayor Kaufman said we cannot get rid of the bears as they travel

20 miles to get to food. He said we should concentrate on the garbage on the side of the road and not at the Convenience Center. He said we are not going to stop the garbage pick-up service and we should wait and see how the new containers work to deter the bears and how the fines correct the homeowners from not disposing of the garbage correctly.

Mayor Castiglione stated we have a motion on the floor by Councilman Sauer for approving the ordinance requiring Short Term Rentals to provide bear resistant containers and the motion was seconded by Vice mayor Kaufman. She called for the vote and it failed.

### **Motion**

Wendel Sauer made a motion to open the discussion seconded the motion. failed unanimously.

### **Motion**

Barry Kaufman made a motion that the Town review how the fines are effecting the homeowners to improve the garbage collection and there be a review of the sanitation procedures in May of 2019. The revenue from the fines goes to the sanitation budget. Weidner Abernethy seconded the motion. unanimously.

## **10. TOWN MANAGER AND STAFF REPORTS- SUBMITTED**

- 10.1. Monthly Report for Fire Dept.
- 10.2. Activity Yearly Summary Totals/BMPD
- 10.3. Planning and Inspection Report 2018-10
- 10.4. October Parks and Recreation Report
- 10.5. TDA Report
- 10.6. Wastewater Monthly Report
- 10.7. Public Works Monthly Report
- 10.8. Water Treatment Monthly Operation Report

## **11. TOWN COUNCIL COMMENTS**

- 11.1. Councilman Abernethy commented that the Christmas Holiday ball was a fiscally irresponsible expense which cost \$22,000, and he believed we should not be spending money on wants but on needs for the Town. He said the Town Council directed the Town Manager to make budget cuts to the insurance plans and the 401 (K) plan. This sends a poor message to the employees that we are not good stewards of funds.

Councilman Abernethy asked if funds had been spent on Shane Outpost Park, to which Mr. Holloman said the engineering and construction on the well house and pump house has begun which was \$125,000 for the water feature. There was further discussion of the project and the infrastructure needed and Mr. Holloman said the wellhouse and pump was infrastructure that

the Town needed to construct. It was noted that the Town will reapply for the Park Grant.

There was further discussion of the Town insurance policies. Mr. Holloman said the staff will have a department head meeting and discuss the insurance carrier and other options. Mr. Holloman stated that the TDA (Tourism Development Authority) had contributed \$11,000 out of its budget for the ornament (holiday ball) and the rest of the cost had come out of the Town's holiday budget. Mr. Holloman stated that the Town owns the ornament so it is for future use as well.

Councilman Abernethy discussed changing the Town Council meeting times and noted that it would be better to have it later in order to allow those citizens that work during the day to attend. There was further discussion of the past changes made to the Town Council meeting times with members of the public giving their input. Mr. Peter Chamberlin reviewed the history of when the Town Council meetings were at different times.

Mr. Holloman added that the public and citizens will be able to view the Town council meeting simultaneously and/ or as an archive video on-demand as the Town was live broadcasting the meetings currently and in the future.

## **12. ADJOURNMENT**

- 12.1.** Adjournment and Clerk's note: these minutes were approved at the December 11, 2018 Town Council meeting.

### **Motion**

Carl Marquardt made a motion to adjourn; there being no further business the meeting adjourned at 5:15 p.m. Weidner Abernethy seconded the motion. CARRIED. unanimously.

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Town Clerk

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Mayor, Town of Beech Mountain