



MINUTES

Regular Town Council Meeting

4:00 PM - Tuesday, August 9, 2022
Council Chambers

The Regular Town Council of the Town of Beech Mountain was called to order on Tuesday, August 9, 2022, at 4:00 PM, in the Council Chambers, with the following members present:

COUNCIL PRESENT: Mayor Barry Kaufman
Vice Mayor Jimmie Accardi
Councilmember Weidner Abernethy
Councilmember Kelly Melang
Councilmember Erin Gonyea

COUNCIL EXCUSED:

STAFF PRESENT: Attorney Stacy Eggers, IV
Town Manager Bob Pudney
Town Clerk Tamara Mercer
Director of Special Projects Riley Hatch

1. CALL TO ORDER

1.1. Mayor Kaufman called the meeting to order.

2. ADOPTION OF AGENDA

2.1. Mayor Kaufman requested a motion to adopt the agenda. (Note: Staff requested agenda item 6.3, Fee Schedule Amendment under Consent Agenda, be removed from the agenda but the agenda was not revised to include this change. Staff also added agenda item 8.3. New Business, Creation of the American Rescue Plan Special Revenue Fund, which the Town Council addressed in the meeting.)

Motion

Kelly Melang made a motion to adopt the agenda and Weidner Abernethy seconded the motion. CARRIED. unanimously.

3. INVOCATION- CYCLONE DEWEY BRETT

4. PLEDGE OF ALLEGIANCE

5. PUBLIC COMMENT

5.1. Ms. Jana Greer of 504 Oz Road stated that she would read a letter from Page Leidy of Emerald Mountain INC., wherein the applicant's requests to repaint the water tank color to one of the green color options as submitted. The statement from Emerald INC, addressed the history of the color and requested Council's approval of repainting and restoring the water tank to a green color for Emerald Mountain theme park. The Leidy's will pay for the full expense of repainting. Mr. Leidy respectfully requested the first option of 'tree line green matte finish' in the application as the precedence has been set by the color green and is appropriate for the Land of Oz. Ms. Greer said that in her personal experience, people have climbed the tank in the past. Now that the tank is blue and is extremely noticeable, it draws more attention for people to climb, so the request is for safety and security as well as the color green is aesthetically appealing.

Dr. Murry Miller of Golfview Drive said the non-profit Mountain Ambulance received 20 checks totaling \$3,000 for a new ambulance for the EMS Station and he thanked the community for their support.

Mr. Rodney Morgan of 318 St. Andrews Road is a summer resident and said this is his first appearance at a Council meeting after living here 20 years. Mr. Morgan explained that he is handicapped and therefore must hire a contractor to clean the yard debris on his property. He took issue with the ordinance concerning yard debris removal. The ordinance is in violation of the Americans with Disability Act, since an able-bodied person has their trash removed by the town but since he must use a contractor, the town will not remove the yard debris. Mr. Morgan added a disabled person is not able to use the city pick-up service. He cited the Code as ordinance Chapter 50.13 E 1-5: "items materials upon request of customer as special pickup, etc." To exclude the disabled bodied was in violation of the ADA and Mr. Morgan provided the Federal Law under 'disability act'. He said he sent an email request for the agenda to address the issue. The town should correct this issue and make an accommodation by amending and making a minor change to the ordinance to allow the disabled to receive benefit of the city's services. Mr. Morgan said is willing to provide proof of disability.

Ms. Lisa Bauer of 3441 South Beech Mountain Parkway, requested to amend the solid waste ordinance regarding the requirement for enclosures at condominium dumpsters. Ms. Bauer said she is the president of her Association, and this is a hardship for the homeowners to erect an enclosure or screen around the dumpsters. The HOA is a non-profit they also have monthly assessments for the two sites for the Republic dumpster. She was not in favor of the added costs at approximately \$15,000 to \$30,000 for the 34 units. Maintenance costs are too expensive, and as president of the board, she noted rentals are down as this is a very quiet this summer. She was opposed to the \$100 per day fine, and requested consideration for condo-owner hardship.

Mr. Mitch Mulley of 3441 South Beech Mountain Parkway requested an update on the Attorney General allowing the Town Council to amend the annual budget. He asked the attorney to address the outcome of reassessing

the tax rate. He requested to use the Convenience Center as people do not want bearicades. The solid waste tonnage is down at Convenience Center, so since the program is working, he asked Council to amend the ordinance so the residents can use it again. Mr. Mulley agreed with Ms. Bauer regarding the fines.

Mr. Mulley noted that the Town needs to address the outdoor amusement code amendments at the public hearing. Mr. Mulley was opposed to all the business signs and t-shirts, and sandwich board signs, the commercial property climbing wall with buzzers, as it is an eyesore.

6. CONSENT AGENDA

- 6.1. Adoption of Minutes
- 6.2. Acceptance for the Revised State SRP Loan

Motion

Jimmie Accardi made a motion to adopt the minutes and approve the Revised State SRP Loan and Weidner Abernethy seconded the motion. CARRIED. unanimously.

- 6.3. Fee Schedule Amendment- NOTE: This item removed from the agenda by Staff

7. OLD BUSINESS

- 7.1. Emerald Water Tank Painting

Councilmember Gonyea noted the submitted proposed colors for the water tank in question. Councilmember Abernethy agreed that on Emerald Mountain the requested green color named 'tree line', would be appropriate. To which Councilmember Gonyea and Vice Mayor Accardi agreed. Vice Mayor Accardi stated the town should allow the applicant to repaint the water tank. Ms. Gonyea added the residents want it and with the security issues she agreed with the applicant. Councilmember Melang agreed.

Mr. Pudney requested that as Council makes a motion to approve the request, that the motion include using the town's vendor for purposes of consistency. The Leidy's' had agreed to contract with the same vendor at a quote of \$12,400, stated Mr. Pudney. He said Staff has no issue with recoating the tank at the expense of the applicant, so the same vendor will recoat the water tank, and town will continue to maintain the utility tank.

Motion

Erin Gonyea made a motion approved the request to recoat the Emerald Mountain water tank using option 1, the color 'tree line' and the same vendor to

perform the painting and Weidner Abernethy seconded the motion. CARRIED. unanimously.

8. NEW BUSINESS

8.1. Resolution to adopt the High Country Regional Hazard Mitigation Plan

In response to Councilmember Abernethy's inquiry, Mr. Pudney explained that the State and FEMA requirements to adopt the regional Hazard Mitigation Plan is given through FEMA working with the State and counties and towns in our western North Carolina area. This is a comprehensive plan for all disaster responses and is a requirement for FEMA aid and disaster reimbursements with the formal adoption of the plan.

Motion

Weidner Abernethy made a motion to adopt the Resolution No. 2022-09, the High Country Regional Hazard Mitigation Plan and Erin Gonyea seconded the motion. CARRIED. unanimously.

8.2. Call for Public Hearing: Outdoor Amusement, Recreation, & Entertainment

Mayor Kaufman explained that by addressing the Code, we would allow the town to correct the ordinance. Currently the code does not address amusements comprehensively, so more control allows Staff to regulate such commercial enterprises. The example given by Mayor Kaufman would be if a Ferris wheel were to be erected. He suggested the citizens provide input at the Council's September meeting and Public Hearing. They welcome feedback and comments.

Motion

Kelly Melang made a motion to hold a public Hearing on September 13, 2022, for Outdoor Amusement, Recreation, & Entertainment code amendments and Erin Gonyea seconded the motion. CARRIED. unanimously.

8.3. Creation of the American Rescue Plan Special Revenue Fund

Mayor Kaufman requested motion for acceptance of the American Rescue Plan Special Revenue fund of \$103,000.

Motion

Kelly Melang made a motion for acceptance of the American Rescue Plan Special Revenue fund of \$103,000 and Weidner Abernethy seconded the motion. CARRIED. unanimously.

9. TOWN MANAGER AND STAFF REPORTS

9.1. Town Manager's Report

Mr. Pudney presented an update on projects and events beginning with the Parks and Recreation summer camp and successful summertime programs. We had exceptional participation which is reflected in the increasing and trending revenues.

The NCDOT is paving Beech Mountain Parkway and as this is a State Department of Transportation project, and the town has no control over the schedule. The work is moving faster than projected. The crews are working during the day due to safety issues.

The Farmer's Market was a great success, thanks to Mr. Fred Pfohl and all who worked putting this together. The team is planning for a second event Farmers' Market on September 2, 2022.

Mr. Pudney reported that unfortunately we were not awarded the BRIC grant, which if awarded, would have funded the fifteen-million-dollar Lake Coffey/ Lake Santis project. Mr. Pudney explained the scoring and process for reapplying. We continue to solicit additional grants and funding opportunities. The Lake Coffey project engineer is responding to the state regarding design levels, as we work towards an agreement for permitting. Continue to work with the resort for an agreement on the joint venture.

The Public Works department had drilled on Locus Ridge, but that water well was abandoned as there was not sufficient water capacity to continue. One well is currently working well through the draw down, and we are looking at the next well project for contractor bidding. The dumpsters should include enclosures. Violations and citing for non-compliance is \$100 day. Notices of fines are going out, we understand that contractors are difficult to employ, but staff has provided time for enforcement since last October stated Mr. Pudney.

Mr. Pudney reviewed the financial report on page 38. Fiscal year closed on June 30, and annual reconciliation was completed for the General Fund and Water/Sewer. The budget was 5.4% below budgeted expenditures. as we completed the year and less miscellaneous costs therefore, \$720,000 went back into fund balance. The Finance Department is currently working with the auditor on the fiscal year audit, and the report to be presented to council in December.

- Expenditures 5.4% below budget
- Budgeted \$1,720,984
- \$993,568 actual expenditures needed
- \$727,416 savings returned to fund balance

The EMS Station unit at Fire Station #2 reports were reviewed. The new unit is a success as response time waits for patients were reduced from averages of 40-50 minutes wait times to mere 10 minutes. The Avery County Manager reported and called the State Office and filed a formal complaint against the Town. Verbally the States' response was that the EMS unit may only respond to the Watauga County side, and we cannot use their services in Avery County. The Watauga County Manager is also working on the issue. The town doesn't have standing as State statute only allows for counties to respond. The written agreement to allow our unit to respond in Avery, was

never signed by Avery County. Mr. Pudney stated that Watauga County has offered to reimburse the moneys to Avery County for every call in Avery County that the unit would respond to, but as of yet we do not have a resolution. Due to licensing, district boundaries, and the unique situation of straddling the two counties, we will work through the politics and jurisdictional issues.

Mr. Pudney reviewed the Town Hall complex project and said we have spent \$70,822.90 to date for design and engineering, and the renovation will be ready to go out to bid within 60 days.

9.2. Budget and Finance Report for June 2022

Motion

Review

9.3. Police Department Monthly Report

9.4. DOI Report July 2022

9.5. Fire Department Monthly Report

9.6. July Recreation Report 2022

9.7. TDA August Report

9.8. Planning and Inspections Report 2022-07

10. TOWN COUNCIL COMMENTS

10.1. Mayor Kaufman asked the Attorney to address the process and procedures for adopting the annual budget, to which Attorney Eggers said he reviewed the State Law by statute the millage rate cannot be amended nor the debt service for the fiscal year. Once the millage rate is adopted by the Council for the 2022-2023 annual budget but maybe adjusted next year.

Councilmember Gonyea thanked meeting attendees. The Police Reports suggest cases are increasing. NCDOT is paving Beech Mountain Parkway and people are stuck in traffic, so Beech Mountain is not slowing down. She noted that there is a Public Hearing next month for gathering citizens' input to address the town's growth cautiously, so we don't become a carnival. She agreed that the blue dumpsters are ugly, so the ordinance requires an enclosure for commercial businesses and the condos. The garbage is collected by Republic Services and the dumpsters by Republic are not green or brown. Councilmember Gonyea reiterated that there is an issue with the Avery/ Watauga counties emergency services conflict and is a healthcare problem. We need emergency services, and we should not have to wait to fix this problem.

Councilmember Melang inquired into Forked Trail status, and pedestrian safety walking to the overlook. Mr. Pudney said that Parks and Recreation crews cut the trail thru and is 100% completed in portions. Crews used the new excavator to build the trail, portions completed as easements secured. We are working with the hotels and property owners to complete it to the Ski Resort.

On Christy Way and Skiway, the town with the TDA are working on the easements to complete it all the way to the resort. The trail head starts at the old recycling center thanks to Elders who provided property easements. In response to Councilmember Melang's question, we are recycling materials and separate the materials as mixed use, replied Mr. Pudney.

Vice Mayor Accardi noted that all councilmembers should contact the Watauga and Avery County commissioners, as the citizens are not being served by the process.

In response to Councilmember Abernethy's question regarding the Convenience Center costs, Mr. Pudney said a total \$325,624 is not available for budget cutting as we must fund the transfer dock, hauling containers to Watauga, recycling shed, as required by the state, therefore, the estimate potential costs available for reduction from the Convenience Center program is \$265,000 reported Mr. Pudney. This would entail closing the two compactors, to which Mr. Abernethy said he was not proposing closing the facility but was interested in what the amount would be and the savings. There are pros and cons for removing or keeping the sanitation programs.

Councilmember Abernethy encouraged citizens that are full time and part-time residents to voice opinions and participate in the meetings and provide input. In response to Mayor Kaufman's inquiry as to the Convenience Center facility usage, Mr. Pudney stated the staff can conduct a study although July would have been a good month to conduct recycling and garbage dump usage by citizens. Councilmember Abernethy and Councilmember Melang agreed conducting a citizens' usage study would provide Council with data and information. Mayor Kaufman cautioned cutting programs such as the Convenience Center because the usage is high and is a service the citizens expect. Mr. Pudney reminded Council that the Convenience Center, runs under the Sanitation Fund as an enterprise fund and would not cut taxes as a saving for the taxpayers.

Mayor Kaufman agreed with amending the ordinance for yard debris pickup for handicapped citizens, to which Mr. Pudney agreed and said the Staff would provide verbiage for Council's review at the next meeting. There was a discussion about the ordinance and debris collection procedures. Attorney Eggers agreed to provide an amendment research ADA compliance.

In response to Vice Mayor Accardi's inquiry regarding the Visitor Center Town Hall complex and renovation project, there was a lengthy question and answer period. Mr. Pudney explained that the project began from the previous management as administration assessed that the Police Department, Visitor Center and Town Hall reached capacity.

The project is a partnership project with the TDA as the TDA and Planning, Zoning, and Inspection Departments will split that space. The TDA and Town share the costs so with that agreement it is a 50/50 split and therefore cost effective. The budget has been approved at approximately \$800,000 which is listed in the capital line items and currently has the \$72,000 which has been spent on designing and engineering.

Mr. Pudney noted that the project scope did expand. It is on-track and is ready for bid. As the bidding process moves forward, the bids for construction and those costs etc., will be put before Council, as well as before the TDA Board.

11. ADJOURNMENT

- 11.1. There being no further business, Mayor Kaufman requested a motion to adjourn at 5:30 p.m.

Note: the minutes are not a verbatim recording of the proceedings.

Motion

Kelly Melang made a motion to adjourn the meeting and Weidner Abernethy seconded the motion. CARRIED. unanimously.

Town Clerk

Mayor, Town of Beech Mountain