



MINUTES

Regular Town Council Meeting

4:00 PM - Tuesday, September 13, 2022
Council Chambers

The Regular Town Council of the Town of Beech Mountain was called to order on Tuesday, September 13, 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

2. ADOPTION OF AGENDA

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

Motion

Jimmie Accardi 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. FEATURED LOCAL BUSINESS- BEECH MOUNTAIN CLUB, BRIAN BARNES GENERAL MANAGER

5.1. Mr. Brian Barnes, General Manager of the Beech Mountain Club, noted the history of the Beech Club and the Beech Mountain Property Association name change in 1983. Mr. Barnes added that the Club values the relationships

between the Resort, the Town and organization staff. He relayed the recent club member survey demographics, wherein most members approximately two-thirds are retired, 91% are married, and there was net gain in membership in past two years, which was probably a consequence of COVID-19. There is a renewed interest in golf and tennis. In the past five years, the mountain has had a higher turnover and a population increase.

Mr. Barnes noted that July is the busiest time in the summer season. Only 8% of the membership live in the town year-round. There is an increase in hiking, pickleball, golf, and tennis activities. The Club has grown and now has a 5-million-dollar annual budget. The summer concert series had over two hundred attendees. The capital improvement projects are scheduled to replace assets over a 20-year time-period, and Mr. Barnes said the Club will continue to meet demand in usage with expansions of the Clubhouse decks and facilities. They also plan to build a band/ concert venue with a covered permanent structure. Mr. Barnes thanked the town and citizens for the continued support of the Beech Mountain Club.

6. PUBLIC COMMENT

- 6.1.** Mayor Kaufman announced the public comment portion of the meeting for those wishing to address the Council.

Mr. Mitch Mulvey of 3441 South Beech Mountain Parkway said their multi-unit residential complex still had issues over the dumpsters. The residents are angry over billing invoices with Republic Services and their contract. Mr. Mulvey asked if the revenue increases are paying for itself. He requested Council to reconsider the dumpsters. He asked to remove the dumpsters from their complex. They have to build the enclosures; an extension was granted due to undue hardship. They wish to work with the Town but ask to go back to using the Convenience Center.

Mr. Ben Massey of Big Helton Road Grassy Gap announced he is running as a representative for NC House District 93 for Watauga, Ashe, and Allegany counties. He is from Grassy Creek and a retired healthcare worker. As a retired professional, he said he will advocate for healthcare and will serve our local interests and promote legislation. Mr. Massey reminded voters to vote on November 8th. He provided his website information for District 93 elections.

7. CONSENT AGENDA

- 7.1.** Adoption of Minutes
7.2. Rescind Item #6.3 from the August Meeting of the Town Council

Mayor Kaufman requested a motion to adopt the consent agenda items.

Motion

Kelly Melang made a motion to rescind Item 6.3 of the August 9, 2022 meeting and adopt the minutes of August 9, 2022, and Erin Gonyea seconded the motion. CARRIED. unanimously.

8. PUBLIC HEARING- OUTDOOR AMUSEMENTS

8.1. Public Hearing Outdoor Amusements and Recreation

Mayor Kaufman requested a motion to open the Public Hearing. Councilmember Gonyea made a motion to open the Public Hearing for a proposed text amendment to Outdoor Amusements and Recreation and Councilmember Melang seconded the motion. Motion carried unanimously.

Mr. Wilson King of 405 Beech Mountain Parkway requested to speak about 9/11 and he recounted that Riley Hatch left to go and volunteer after 9/11 and Phil Bradshaw lost his wife during 9/11 as she worked as an airline attendant on the Philadelphia flight during the tragedy.

Mr. King said Beech Mountain is a safe, clean, quiet mountain community for those who wish to enjoy nature. Our environment is very fragile, and we need to be careful. Our unique town is special, and he encouraged Council to do the right thing.

Ms. Jana Greer of 504 Oz Road said she participated in the Planning Board meeting regarding 'outdoor amusements' as a representative for the Land of Oz and was not in agreement with the proposed text amendment. Ms. Greer recounted the history of the opening of the theme park in the 70's and the several iterations of the park in the 80's and 90's. The park has a rich and diverse history with Hollywood, the community, and historic preservation. Each year the Land of Oz holds a fundraiser for Locals to attend and donates proceeds to the Volunteer Fire Department and EMS services, allowing local families to enjoy Oz at no charge. The park has given visitors a place to enjoy the mountain when there has not been any snow such as in 2011. The park attracts visitors worldwide to Beech Mountain said Ms. Greer.

Ms. Bonnie King of 102 Maplewood Lane expressed her support for Larry and Laura Watren and the new gem mine and White Wolf Lodge and was not in favor of the proposed amendment. The business has spent money on renovations and rebuilt at the location and is a positive impact for the community. Ms. King said she volunteers at White Wolf Lodge and works with Larry Watren who is kind, and she encouraged the community to support the gem mine.

Mr. Mitch Mulvey said he attended the Planning Board meeting wherein they were working on crafting a set of rules defining the criteria as our mountain theme. The proposed regulations address what are amusements. He was in favor of publishing guidelines, not regulations so we are not Pigeon Forge or Dollywood. Mr. Mulvey was in favor of passing a moratorium on anything new to understand what they are doing. Every construction application needs to be carefully screened and brought before the citizens' Planning Board. He concluded that temporary amusements, such as the kite

festival, music and carnivals should be vetted to determine specifics on the venue, the resident contact information, the promoter, the policing and policies, and ensuring the integrity of the site. For example, the kite festival left garbage debris, said Mr. Mulvey.

Mr. Al Hoffer of 138 Tamarack Road commented on sanitation and garbage fines. He recounted an incident where some garbage was left out on top of his container and he was fined \$150, but it was from other people. He disagreed with the procedure for issuing garbage fines.

Mr. Page Leidy of 503 Oz Road stated that his family owns and operates the Land of Oz and the EMO trail system (Emerald Mountain Outback) landowner, said the proposed zoning amendment text conflicts with the 2020-2035 Comprehensive Plan, therefore he disagreed with the justification of the zoning change. Mr. Leidy said the corporation requests a separate zoning category for Oz such as a zoning category similar to BMR (Beech Mountain Resort District). He recounted the current history of Oz from the original theme park which along with the Beech Club and Ski Resort, opened in the 1970's. He noted the various monetary donations to the Chamber of Commerce, EMT Station and ambulance fund, ROTC, Police, and Fire Departments. The Park employs 100s of people and they as well as visitors add to the Town's occupancy tax collections and are a vital and historic member of the community.

Mr. Leidy referenced Chapter 10 and 11, Economic Development and Tourism and Recreation in the Comprehensive Plan, under Policy strategy and the importance of capitalizing on existing assets to spur economic vitality. The town capitalizes on Oz and effectively markets Oz as one of the Regional Attractions. He requested the town to support local businesses.

Mr. Miles Rice of 503 Oz Road questioned the proposed ordinance. He said he works on the management team at Land of Oz. Mr. Rice read a letter from the Designer, Jack Pentes' son, Dorn Pentes. In the letter, Mr. Pentes said the designer of Oz and Fred's Mercantile, along with Grover Robbins proposed the layout of Beech Mountain in 1967. These visionaries marketed the beauty of the area and supported Oz. Millions of dollars have been invested at Autumn at Oz and its infrastructure and Oz looks brand new, said Mr. Rice.

Mr. Robert McMichaels of 710 Pine Ridge Road expressed his concern both in favor of and against the text amendment as the Planning Board was also concerned and asked for the text amendment to go back to the Board. Mr. McMichaels encouraged Council to send the proposed text amendment back to the Planning Board and to work for the mountain.

Ms. Lynn Bernstein of 304 Lake Ledge Road supports the process which should be vetted, focusing on honoring the past and working towards a future for the whole community. It is important to engage the community, and for citizens to understand the procedures. Ms. Bernstein said she appreciates the proposed text amendment.

Mr. Larry Watren of 336 Beech Mountain Parkway and owner of White Wolf Lodge thanked Fred Pfohl and Vice Mayor Accardi for their support and donations to the orphaned children's home. Mr. Watren said he understands that people want a quiet community but also want business. The Gem Mine is mountain themed as well as the rock-climbing wall. Mr. Watren noted that the TDA is working on the sidewalks, landscaping flowers, and streetlights and he wants his business to look better. He encouraged everybody to work together and more time to not overreach or add controls over his business. He said he works 90 to 100 hours a week for seven years and it is his retirement. He recounted his own medical issues with his heart. Mr. Watren will work in harmony with the community to make the site cohesive.

Ms. Donica Hudson of 501 Grey Fox Ridge said that people see the White Wolf Lodge and the Brick Oven Pizza for family community events as well as the resort. Ms. Hudson encouraged less government regulations in order for small businesses to thrive. Ms. Hudson read a letter in support of Larry and Laura Watren.

All those given an opportunity to speak, Mayor Kaufman requested a motion to close the Public Hearing.

Motion

Jimmie Accardi made a motion to close the Public Hearing and Erin Gonyea seconded the motion. CARRIED. unanimously.

9. NEW BUSINESS

9.1. Zoning Text Amendment Outdoor Amusements and Recreation

Mayor Kaufman requested a motion to open the discussion on the proposed text amendment and Vice Mayor Accardi moved to open the discussion with Councilmember Melang seconding the motion. Carried unanimously.

Vice Mayor Accardi said the Council should provide more time to review and vet the process, so it is clearer and less intrusive for businesses, to which Councilmember Melang agreed. She said the Planning Board members sent Council emails which did not agree with the staff report. Councilmember Abernethy believed there was adequate time for discussion, and the time is now to make a tough decision on regulation.

In response to Vice Mayor Accardi's request to explain temporary outdoor uses, Mr. Pudney stated that a temporary outdoor use, would be allowed under a Special Use Event permit. He added that such events under the current zoning ordinance are allowed, and this proposed text amendment does not affect those.

Councilmember Gonyea said the Planning Board needs to revisit the issue and Council can proceed in one more month to look at the big picture. Ms. Gonyea cautions to work with the business owners to review the wording,

and added she was not comfortable voting today. Mayor Kaufman was curious as to the text amendment problems and Councilmember Gonyea said she wanted to know exactly what is allowed and not allowed for businesses. There are inconsistencies such as Oz needs to be allowed to remain and separate as an original development of the mountain. Some businesses need to be grandfathered in, although we do not want a Ferris wheel here. Beech is a special place and growth needs to be careful, added Ms. Gonyea.

Mayor Kaufman said Oz stays as it is as long as there are no changes as well as the White Wolf Lodge. That the proposed ordinance does not change what they are doing and maybe that is what the confusion is. The proposed ordinance controls what is new and does not change what exists for the businesses.

Vice Mayor Accardi asked if it was for the main corridor or for the whole Town, and Mayor Kaufman replied that is part of discussion, to either zone the overlay corridor or the whole town. Councilmember Melang said the Planning Board was not on board with the proposal. If they are not comfortable then she is not comfortable. Mayor Kaufman said they are to make recommendations, and they had 90-days to make a recommendation and are creating the confusion.

There was further discussion regarding the proposal in an overlay portion, defining the zoning for the whole town, the non-conforming uses, changes to existing non-conforming businesses and their footprints, and the Code of Ordinances for outdoor amusements in the commercial zoning district.

Councilmember Abernethy said he was in favor of this ordinance to protect established businesses, and to preserve the landscape of the mountain from unwanted projects or zoning uses.

Councilmember Melang said she was currently against voting. In response to Vice Mayor Accardi question regarding a delay of the matter, Attorney Eggers stated the procedure for tabling the matter and returning it to the Planning Board. Councilmember Gonyea was in favor of the tabling the matter with instructions to the Planning Board to provide a recommendation within 30-days and to re-advertise the Public Hearing.

Motion

Erin Gonyea made a motion to send the proposed text amendment to the Planning Board for further review of the matter and for the Board to meet on September 20, 2022 at 9:00 am. in order to present the recommended text amendment at Council's next meeting on October 11, 2022 and Kelly Melang seconded the motion. CARRIED. 3-2 (opposed: Barry Kaufman and Weidner Abernethy).

9.2. Pinnacle Ridge Well Development Bid Recommendation

Mr. Pudney reviewed the bids stating that the town only received two bids. Attorney Eggers pointed out the policy for contract bids under informal bids is required for the town to receive three bids. The Town Council would need to waive the policy requirement of three bids in order for the project to be awarded.

Motion

Weidner Abernethy made a motion to waive the three-bid requirement and award the Pinnacle Ridge Well Development Bid to the McCall Brothers, Inc. as the contractor with the low bid contract and Kelly Melang seconded the motion. CARRIED. unanimously.

9.3. Ordinance to Amend Chapter 50.13 for ADA Accommodation for Solid Waste Collection

Mr. Pudney noted the reason to address special solid waste curbside collections to accommodate the Americans with Disability Act. Attorney Eggers explained the definition of a contractor or a work for hire and that the proposed ordinance provides that language. Mr. Pudney explained procedure of curbside residential garbage pickup and he review the criteria as to the compliance with definition under the ADA (Americans with Disability Act) or disabled person.

Motion

Weidner Abernethy made a motion to approve Ord. No. 2022-05 to amend Chapter 50.13 to allow for special solid waste garbage curbside pickups for disabled individuals in compliance with the Americans with Disability Act and Erin Gonyea seconded the motion. CARRIED. unanimously.

10. TOWN MANAGER AND STAFF REPORTS

10.1. Town Manger's Report-

Mr. Pudney noted the delay in sending out the Tax bills due to the Town having not received the Watauga County tax scroll. As soon as received, the Tax Administrator would process the tax scroll for ad valorem property taxes from the town.

The next Town Hall meeting will be held on the topic of Utility Infrastructure Funding to be held on October 6, 2022, at 4:00 p.m. at the Parks and Recreation Buckeye Recreation Center.

The Avery County EMS agreement is in place and completed, as approved by both counties. Mr. Pudney thanked both Watauga and Avery County for expediting the EMS Station agreement on Beech Mountain. The EMS rescue response time has been reduced and is approximately 8.28 minutes, which includes call processing time.

The Town's Personnel Salary Study, by the consultant MAPS Group is underway. An organization meeting is scheduled with all employees and the

consultant. Mr. Pudney said Council can expect a final report prior to budget preparation. NCDOT paving of Beech Mountain Parkway is almost complete, with lines painted and reflectors to be installed. The recycling report on page 45-46 posted that generally the recycling program is equal to the past year numbers. He pointed out the Police Report wherein police matters, and incidents are increased by 21% over last year's incidents.

Mr. Pudney invited the public to view the new camera installed at the sledding hill, which was funded by the TDA and can be found on-line under the search for Resort cams.com

- 10.2. Finance Reports for July 2022
- 10.3. DOI Report August 2022
- 10.4. Fire Department Monthly Report
- 10.5. Police Department Monthly Report
- 10.6. August Recreation Report 2022
- 10.7. TDA Report September 2022
- 10.8. Planning and Inspection Report for 2022-08

11. TOWN COUNCIL COMMENTS

- 11.1. Councilmember Melang inquired about the Public Works report on recycled plastics, and Mr. Pudney noted that we are still accepting and recycling plastics. He reviewed the procedure. Councilmember Melang announced that Land of Oz 'locals' night' will take place on September 22nd, where families can tour the Land of Oz for \$10.00 and proceeds from the event will benefit the Beech Mountain EMS Station ambulance fund.

Councilmember Abernethy discussed cutting costs from the sanitation budget, specifically he asked about reducing the three employees to two at the recycle center to which Mr. Pudney explained the scheduling of the employees and hours of operation at the center. Mr. Pudney added that he could not reduce the workers and maintain those same hours of operation.

Councilmember Abernethy inquired about revenues at the sled hill. There are massive crowds, he said, and the voters and taxpayers look to reduce expenses. Councilmember Abernethy surmised this is a potential \$50,000-\$75,000 revenue stream and should the town potentially charge for sled hill use. Mr. Pudney explained the sled hill procedures for making snow, the costs are the labor and electric utility. Attorney Eggers stated for insurance purposes he would discuss the issue in closed session as the town cannot charge for the use of the sled hill. Mr. Pudney replied that the taxpayers have not paid for the sled hill, nor bathrooms, nor any of the amenities as those are paid for by the TDA.

Councilmember Gonyea thanked the citizens for their input. Mayor Kaufman said he was not in favor of changing the Convenience Center operations nor in favor of charging at the sled hill since the TDA paid for bathrooms, snow guns, camera, and parking lot.

Mayor Kaufman requested a motion to recess to closed session Pursuant to NC GS 143-318.11 (a)(3) for Attorney Client Matters.

Motion

Kelly Melang made a motion to enter Closed Session pursuant to NC GS 143-318.11 (a)(3) Attorney Client Matters and Erin Gonyea seconded the motion. CARRIED. unanimously.

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

12.1. Mayor Kaufman noted the Council returned from closed session wherein no action was taken, and he requested a motion to re-enter the regular open meeting.

Motion

Weidner Abernethy made a motion to return from closed session to the open meeting and Kelly Melang seconded the motion. CARRIED. unanimously.

13. ADJOURNMENT

13.1. Upon return from Closed Session, Mayor Kaufman stated no action was to be taken at this time. There being no further business, he requested a motion to adjourn at 6:35 p.m.

Motion

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

Town Clerk

Mayor, Town of Beech Mountain